UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	
	)	Investigation Nos.:
POLYETHYLENE TEREPHTHALATE	)	701-TA-439-440 and
RESIN FROM INDIA, INDONESIA,	)	731-TA-1077-1080
TAIWAN, AND THAILAND	)	(Preliminary)

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Wednesday,
April 14, 2004

Room No. 101
U.S. International
Trade Commission
500 E Street, S.W.
Washington, D.C.

The preliminary conference commenced, pursuant to Notice, at 9:33 a.m., at the United States International Trade Commission, ROBERT CARPENTER, Director of Investigations, presiding.

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Staff:

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APPEARANCES: (cont'd.)

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CHRIS PETERSEN, Assistant Section Manager, Nan Ya Plastics Corporation America
MIKE DEWSBURY, Vice President, PET Resins, Wellman, Inc.
ROBERT TAYLOR, Business Operations Manager, PET Resins, Wellman, Inc.
HANS KINNER, Business Director, Polyester Products North America, Voridian Division, Eastman Chemical Company
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I N D E X

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P R O C E E D I N G S

(9:33 a.m.)

MR. CARPENTER: Good morning, and welcome to the United States International Trade Commission's conference in connection with the preliminary phase of countervailing duty Investigation Nos. 701-TA-439-440 and antidumping investigation Nos. 731-TA-1077-1080 concerning imports of PET resin from India, Indonesia, Taiwan and Thailand.

My name is Robert Carpenter. I'm the Commission's Director of Investigations, and I will preside at this conference. Among those present from the Commission staff are, from my right, Jim McClure, the senior investigator; on my left, Michael Haldenstein, the attorney/advisor; Clark Workman, the economist; David Boyland, the accountant; and Raymond Cantrell, the industry analyst.

I understand the parties are aware of the time allocations. I would remind speakers not to refer in your remarks to business proprietary information and to speak directly in the microphones. We also ask that you state your name and affiliation for the record before beginning your presentation.

Are there any questions?

(No response.)

MR. CARPENTER: If not, welcome, Mr. Hertzberg. Please proceed with your opening statement.

MR. HERTZBERG: Good morning. Thank you.

I am Mike Hertzberg, joined by my partner at Howery, Simon, Arnold & White, Juliana Cofrancesco, and our economist, Dr. Susan Manning at CapAnalysis. We are pleased to be here today representing the United States PET Resin, P-E-T resin, Producers' Coalition, the Petitioner in this proceeding.

Emphasizing the importance of this case, all of the petitioning members of the Producers' Coalition are represented here today to provide information to you and to respond to your questions.

Rather than give you an elaborate opening statement, we will use this time to introduce our panel. I would ask everybody to just stand when I mention their name so you can see who they are.

From Wellman, Inc. we have Mike Dewsbury and Robert Taylor; from the Voridian Division of Eastman Chemical we have Hans Kinner; from DAK Americas we have Ricky Lane; and from Nan Ya Plastics we have Chris Petersen.

In addition, our panel includes Mark Adlam from M&G Polymers USA, a U.S. producer that supports

the petition.

We will be keeping testimony from the hired guns to a minimum in our presentation today. Although Dr. Manning will conclude the panel's presentation by emphasizing a few of the key economic considerations that underlie this case, rather we will have U.S. producers tell you directly how they are being materially injured and threatened with material injury by PET resin imports from each of the subject countries -- India, Indonesia, Taiwan and Thailand.

We would ask that you pay particularly close attention to the panel's comments about the adverse impact of the rapidly increasing imports based on unfairly, unreasonably and unsustainably low pricing from all of the subject countries.

Based on our analysis, these low import prices do not take account of raw material pricing and changes in raw material costs. This seriously injures and threatens U.S. producers who must deal with a severe cost/price squeeze in order to sustain U.S. operations. This has become increasingly difficult and has led to the conditions which have made this case a necessity.

Thank you.

MR. CARPENTER: Thank you, Mr. Hertzberg.

Ms. Esserman, please?

MS. ESSERMAN: Good morning, Mr. Carpenter and members of the staff. My name is Susan Esserman. I'm with Steptoe & Johnson. I'm appearing today on behalf of Reliance Industries, an Indian PET resin producer. My opening remarks, however, are offered on behalf of Respondent producers from Indonesia, Thailand and India.

The record of this preliminary investigation will provide the Commission with clear and convincing evidence that the U.S. PET resin industry is neither materially injured nor threatened with injury by reason of the imports. This is so even giving Petitioners the benefit of the doubt on legal issues such as like product and cumulation.

The record will be exceptionally well developed for a preliminary investigation due to the arguments and data developed from the pending GSP proceeding, as well as the voluminous record of public statements from the Petitioners themselves regarding key factors affecting the industry.

Those documents and, as we will show, the record as a whole tell a tale of two industries. The picture that the domestic industry paints in its petition stands in stark contrast to the public

record. These public statements tell the real story here.

I would like to highlight one of the statements. Only two months before the petition was filed, the chairman and CEO of Petitioner Wellman stated that market conditions in 2003, and I quote, "resulted from the significant midyear PET resin capacity increases combined with an unexpected drop in demand related to the poor summer weather in the eastern United States and an associated reduction in customers' inventory levels."

We couldn't have put it better ourselves. The record and the testimony today will confirm exactly what Wellman told its shareholders, namely that any problems faced by the domestic industry were caused by a temporary confluence of factors having nothing to do with the subject imports.

Indeed, it is striking that on the eve of the filing of the petition Wellman makes no mention of subject imports. None whatsoever. This is not the language you typically see from a CEO concerned about import competition.

The omission is all the more telling considering that elsewhere Wellman's reports specifically reference the adverse influence of

Chinese fiber imports when discussing the company's fiber operations, obviously fiber not being under investigation here.

Wellman's public statements are not the only anomaly you confront in this investigation. Consider the Commission's traditional measures of industry performance, virtually all of which shows strong improvement over the period of investigation.

The Commission questionnaire data show increasing domestic shipments, increasing production, increasing capacity, increasing demand and prices that are now on the rise. This is not the typical profile of domestic industries petitioning successfully for import relief, nor is this an industry that can credibly claim to be threatened with injury by reason of subject imports.

The domestic industry itself projects favorable conditions and strong performance in 2004 and 2005. All available forecasts, including Petitioners', literally show surging demands, both domestic and worldwide, in the next few years. At the same time, it is expected that subject imports will be restrained in the near term as Asian producers will have to contend with increased raw material costs.

Production from the subject countries will

be directed with increasing frequency to new export opportunities in emerging markets. There is simply no basis to speculate, as the petition does, that any increases in subject country capacity will result in significant expansion of import volumes in the United States.

In short, as we will show today and further in our post-conference submissions, Petitioners have not met the preliminary standard for proving injury or threat. The Commission should reach a negative determination.

Thank you.

MR. CARPENTER: Thank you, Ms. Esserman.

Would the petitioning panel come forward now at this time?

Mr. Hertzberg, are those samples in your way? Feel free to move them.

MR. HERTZBERG: No. I think we want you to be able to see them as well as you can.

MR. CARPENTER: Okay. Good. Thank you.

MR. LANE: Good morning. My name is Ricky Lane with DAK Americas, and this morning I would like to share with you and give you some understanding of what bottle-grade PET resin is and how it's used by our customers.

PET resin is produced by a polymerization process using two principal raw materials, purified terephthalic acid or PTA and monoethylene glycol or MEG. These two raw materials together make up 75 to 80 percent of the cost of PET resin. This melt face polymer is then pelletized and then solid stated.

Let me show you what PET resin looks like. As you can see from these samples, PET resin is packaged in the form of pellets or chips. This is the medium by which we, the producers, sell our products.

PET resin manufacturers in general only manufacture PET resin itself. We do not actually produce bottles or other packaging from PET resin. The resins we supply are converted into end use products by our customers, who are primarily converters, bottlers and some brand owners. Most converters make a product called a pre-form, which is being circulated around as well. This pre-form is then in most cases blown into a bottle.

There are three main applications for PET resins -- bottles such as those displayed in front of you, sheets used for making clam shells by which popular items such as strawberries and other fruits are packaged in supermarkets, as well as strapping, which you'll find on many large, bulk substances such

as lumber.

I brought with me some samples of a variety of products that can be made with bottle grade PET resin. These products include soda and water bottles, household cleaners, food containers and toiletries. PET resin is a popular packaging material because of its desirable physical properties, including strength and thermal stability, along with clear transparency. It is so popular that the demand in the United States has been growing and is expected to continue to grow at five to seven percent in the foreseeable future.

I'd just like to say a word here about interchangeability of PET resin. Generally speaking, PET resin from any source, be it imported or produced in the U.S., is chemically the same and can be used in any of the various applications that use PET bottle resin.

Certain intrinsic viscosities are preferred by customers for their specific applications. There are also a wide variety of additives that can be introduced in the manufacturing stage of particular customer specifications.

For example, certain intrinsic viscosity ranges are preferred for water bottles and carbonated soft drinks, but the truth of the matter is that

converters and bottlers can use PET resin pretty much across the board and can make minor process condition changes to accommodate a variety of bottle grade PET resins for their end uses.

In general, most any of the PET resin manufacturers, domestic or import producers, can make a given grade of PET resin, and any customer can use PET resin supplied by subject imports or domestic importers in their applications such as the products that you see before you.

Heat set or hot fill is something that you will hear about from the other side today. This is the same basic product as cold fill PET resin. It's made on the same production equipment by the same employees in the same facilities. The difference between hot fill and cold fill is that some temperature and additive adjustments are made in the process of producing PET resin. I have several examples of hot fill bottles among the samples here, primarily the three products at the end.

The fact of the matter is that producers in the four subject countries are fully capable of making hot fill PET resin, as many of them currently advertise these options on their websites. It is a clear matter of choice for these foreign producers to

define what market they choose to play in.

We have seen some hot fill PET resin imports being sold to our customers in the U.S., although we have observed that importers primarily sell to the cold fill PET resin in direct competition with us. These areas where the importers have chosen to target are the bread and butter segments that DAK Americas depends upon to fill its capacity.

Let me also give you some background about the domestic industry to help you better understand why the subject imports are injuring our business. The PET resin industry is a highly capital intensive industry. A new production plant is typically upwards of $100 million investment. It takes at least two to three years to plan and construct a PET resin production plant.

In addition, production facilities have to run at very high operating rates in order to be profitable. Another important fact that I mentioned before is that raw material cost is the chief cost component in the production of PET resin. Raw material prices for PTA and MEG are significant and volatile for producers in the U.S., as well as worldwide.

The low import prices from India, Indonesia,

Thailand and Taiwan that we have been faced with in competitive situations have forced us into a very difficult situation. DAK Americas has lost important sales and has walked away from millions of dollars where we could not meet the import prices that our customers presented to us.

We simply cannot sell in such situations and lose money on the sales. In some situations we did indeed keep the business, but only after lowering our prices when faced with import price competition. This has had a serious adverse effect on DAK Americas and its bottom line.

MR. PETERSEN: Good morning. My name is Chris Petersen from Nan Ya Plastics.

Nan Ya, too, has been injured by very low-priced, unfair imports. Honestly, we cannot comprehend how the imports are able to sell in the U.S. at such low prices based on information given to us by our customers. A substantial volume of these imports are being sold directly to converters, so we know that the prices at the port are real prices being paid by some of our customers.

Here's an example of that. Pepsi exports PET resin from India. That resin is then imported directly to make the bottles for Pepsi in the United

States. The sales process is something you should also understand so that you can see how the price competition from the imports is squeezing Nan Ya.

Low-priced imports from the four countries have focused on gaining market share in the high-volume commodity PET resin products, as you have heard from DAK. Supplier loyalty does not apply to PET resin. Customers are quite likely to switch suppliers for a small decrease in price, even for a penny a pound.

This is a very critical point for you to understand because I myself have been in negotiations with customers where I've lost business for less than one cent a pound, which might seem unbelievable to you, but, unfortunately, it is a daily reality for me.

Far and away the most important factor that will win or lose a sale is price. Another chief point here is that when I lose a sale because of a penny or two a pound to the imports, it means a lot of money to my company. It means a lot because a single sale can involve millions of pounds of lost business.

Even in those instances where I end up keeping the business, I still have lost a substantial amount of money on the sale when I have had to come down in price by a handful of cents per pound. I

can't emphasize enough that pennies a pound matter in this business. A simple penny can and does mean $8 million to $10 million to Nan Ya's bottom line.

Here's a sales strategy that the imports use to capture sales in the United States. Brokers or the exporters themselves call on customers that are supplied by Nan Ya or another domestic producer and offer prices for imported PET resin for a couple of cents per pound less than the current selling price. The customer then takes the offer to the domestic producer and asks for a reduction in price or else the buyer will shift its purchasers to the importer. It's just that simple.

The U.S. producer then is forced to either match the lower price or lose the business. Either way, the domestic producers lose. The lowered price means lost revenue, lost business means lower capacity utilization, and lower utilization reduces production efficiency and again cuts into our profits.

This is why the volumes in this case are more significant in their impact on our business than what otherwise would appear from the import penetration figures that you are looking at here. Point number one is that there increasingly is concentration of customers that actually make up the

majority of shipments in the U.S. market. A very low priced import offer at these large customers will impact literally millions of pounds of business.

A second point is the customer knows that there is substantial available capacity in these countries and that much more is coming on line. He can buy as much as he wants from these exporters at what we feel are impossibly low prices, so the customer is in the driver's seat where he can use the import offer to extract significant price concessions from the domestic producer, even if he chooses not to buy the import in the end in a particular transaction. This happens to be on a monthly basis, sometimes even on a weekly basis.

Business I thought I had negotiated and won can suddenly disappear when the imports show up at the door with a lower offer. Nan Ya's business has suffered materially because of these unfair imports. Nan Ya has in the past several years tried desperately to pass along the rising cost of raw materials. However, the increasing rate of unfairly priced imports has made this impossible.

Therefore, our margins have continuously been reduced, forcing Nan Ya to continue to find means to cut our costs. Doing this has meant less

reinvestment, starting a downward spiral that seems to have no end.

MR. KINNER: Good morning. I am Hans Kinner with the Voridian Division of Eastman Chemical Company.

I concur with Nan Ya's statements as he's just described to you about the sales strategy mentioned by the Asian producers used to target our U.S. customers and how the customers that use those import quotas to force down U.S. producer prices and at the same time at some of our accounts customers have informed me that the import prices are being quoted at a certain number of cents below the price of the domestic producer prices, for example.

Time and time again, we hear from customers that they want to reopen price negotiations with an import quote in hand from one of these four countries. We are forced to match the price or walk away. As Nan Ya just told you, the domestic producer loses either way. We either lose substantial revenue when we manage to keep the business or we lose the sale, and that works against our ability to keep our plants filled out.

These unfair imports have had a serious negative impact on Voridian's business. I'd

specifically like to give you a couple of things. In January 2002, Voridian was forced to close 200 million pounds of solid state capacity in Toronto, Canada. In that same quarter, we had to shut down 100 million pounds of capacity at our Kingsport, Tennessee, facility. Everyone in the company took a three percent pay cut the first quarter of last year.

Then as further examples, I have an example of the downgrading of our credit rating on October 6, 2003, in no small part mentioned by both S&P and Moody's because of the low margins in PET pricing.

Furthermore, I'm going to share one other thing. Because of this trend of increasingly depressed PET margins, this afternoon there's going to be a public announcement of the restructuring of Voridian's PET business. I'll give you a copy of that. It's not public. It'll be made public at approximately 1:00 this afternoon, but it's going to result in a significant reduction in employment both in South Carolina and in Tennessee.

I can tell you this has been a particularly difficult period in my career. The last I guess six months or so we've had to work through this. There will be a lot of folks that I've known for many years that will be impacted by this change. It's in no

small part because of the reduced prices that we feel from these imported resins from these countries.

Furthermore, what's even more disturbing is that the future of our business has been seriously threatened by unfair imports. Imports from these four countries have been growing at an astounding rate since the EU made remedy orders imposed in 2000. We cannot even take advantage of the growing demand in this country because the imports are preventing domestic producers from investing in the capacity expansions that are and will be necessary to meet the growing levels of demand in the U.S.

We see the overcapacity in the four Asian countries as a clear threat to our business because that excess capacity is being targeted at the U.S. in large part. Let me show you what I mean. You'll notice the slide.

In this slide, you can see what the current capacity is in the four countries as we understand it in 2003. For India, our sources indicate capacity is approximately 650 million pounds; for Indonesia, we believe capacity is about 820 million pounds; Thailand, 910 million pounds; and Taiwan's capacity is believed to be 1.7 billion pounds.

Gentlemen, the accumulated amount of

capacity here is enormous, estimated at four billion pounds in 2003, especially considering how small the local demand is in each of these countries, which I'll show you in just a minute.

Now let's take a look at what the additional new capacity is that is understood to be coming on line within the next year or so. In India, it's estimated an additional 750 million pounds is being added; in Thailand, 230 million pounds; we anticipate that Taiwan will add over 330 million pounds; Indonesia, another 105 million pounds. Altogether, we're looking at an additional 1.4 billion pounds of new capacity coming on line in the very near future.

Now, is this capacity being added to fill a need in the local marketplace? Most definitely not. Let's look at demand in these countries in the next slide. For India, our estimate of demand is estimated at 280 million pounds; for Indonesia, demand is believed to be 150 million pounds; Taiwan, demand is about 300 million pounds; and for Thailand demand is estimated at 150 million pounds.

As you can clearly see, excess supply, which this does not even include the other 1.4 billion pounds of amount capacity that I just mentioned, in the subject countries as a percent of existing

capacity is an astounding 75 percent, so it is impossible for these capacity additions to be consumed in the home market. Based on our experience with these imports over the past three years, we don't need a crystal ball to conclude that these excess production volumes are largely targeted and destined for the U.S. market.

Besides the extensive overcapacity in these countries, we understand these foreign producers to be export oriented. These countries export far more than they are able to absorb in their home markets. In some countries like India and Thailand, the governments encourage exports and even subsidize these producers to encourage their exports.

When we look at our future, it does not look bright. The unfair imports are capturing our customers and our sales with their extremely aggressive, low priced sales strategy. Even when we're able to maintain the business, we're being forced to lower our prices.

Furthermore, we are in a bind because of the significant volatile raw material cost that we have to face in our business month to month. We certainly have tried to counter the negative effects of this rise in raw material cost by attempting to pass on

these costs through higher prices.

However, many announced increases have been unsuccessful due to the rising volumes of low-priced, unfair imports that do not reflect their own higher raw material costs. That is, they have made the strategic decision to gain volume and market share at any cost. Then we're back in the same bind.

We're focused to delay much needed price increases or to obtain only a partial increase and absorb the increasing cost. In some instances, we cannot push through the increases at all because we stand to lose the business altogether.

Bottom line for Voridian is that we cannot sustain a profitable business in the face of such unfair import competition without the imposition of antidumping and countervailing duty orders to offset the unfair advantage of these imports from India, Indonesia, Thailand, and Taiwan.

Thank you.

MR. DEWSBURY: Good morning. My name is Mike Dewsbury. I'm the Vice President, PET Resins, for Wellman, Inc. I'm responsible for our U.S. PET resins operations, our production, sales from our Palmetto, South Carolina, and Pearl River, Mississippi, resin plants.

While I'm constrained by confidentiality, I will try to provide as much information as I can publicly to illustrate the serious adverse impact that dumped and subsidized PET resins from imports from the subject countries are having on Wellman and the other domestic producers.

First, subject imports have increased significantly from 2001 to 2003 on both an absolute and a relative basis. Import volume has increased dramatically from 101 million pounds in 2001 to 430 million pounds in 2003 or by 324 percent.

On a relative basis, we believe that these imports increased from less than three percent of the U.S. market in 2001 to more than nine percent in 2003 at the direct expense of the U.S. industry. The rapid increase is shown in this slide.

One thing that's important to note on this slide is that even though it is slightly outside your period of review that in August 2000 the EU imposed provisional dumping remedies against all of the subject countries and provisional subsidy remedies against Thailand and India. These orders were at a very high duty level, which effectively foreclosed exports from these countries into Europe. Shipments from the subject countries increased to the U.S. at

that time.

The next two slides illustrate the magnitude of the dumping and subsidies found by the Europeans. Depending on the country and the exchange rate, the total duties imposed by the EU have ranged from two and a half cents to 13 cents or more per pound.

The clear effect of these orders was to shift the strong export focus of the producers in the subject countries to the United States and to cause the rapid onslaught of the subject imports into the United States, which our earlier slide illustrates well.

In fact, if the increase in the U.S. imports from these countries is measured from 2000, the year of the European action, the import increases an astonishing 537 percent through 2003, and the relative gain in market share is from less than two percent to approximately nine and a half percent in a very short time.

As the U.S. market was growing by approximately 25 percent since 2000 and by over 20 percent since 2001, the imports from Indonesia, India, Taiwan and Thailand have captured a significant share of the U.S. market and have captured a lot of the growth in the market at the direct expense of U.S.

producers.

As a last word about volume, I should also mention that these numbers do not consider a significant tonnage of bottle grade resin that we believe was entered from Thailand and Indonesia in the wrong tariff category. We would ask you to do what you can to investigate this possibility as well.

Clearly, in any case, we believe that you should have no trouble finding that the volume considerations that the Commission must make are met in this case. The volume has displaced U.S. sales volume, and U.S. producers' market share has declined. This has had a direct impact on our utilization rates, sales and profitability.

The real problem for the U.S. PET resin producers arises from pricing of the subject imports. The import prices from all four of the subject countries have been at simply unsustainable levels for both American producers and for them. They are not covering their own fully loaded costs and are priced in U.S. competition substantially below our own fully loaded cost.

This hurts U.S. producers in many ways. First, the domestic producers have lost significant business to substantially lower priced imports from

producers in all the subject countries. Since we are selling in quantities of millions of pounds and dollars per sale, each lost sale takes a significant piece out of our hide.

All of the U.S. producers have suffered substantial direct loss of sales, and we have supplied you with significant information regarding these in our petition. The lost sales situation on the west coast is so bad that it is rare any of us are able to obtain business or to win it back from producers in the subject countries. Usually we cannot match the prices offered by the responding producers and make a profit, or, if we choose to match and save the account, we'll lose money on the transaction. Successful business cannot be done in this way.

Another substantial adverse consequence of the low-priced imports from India, Taiwan, Thailand and Indonesia is that our prices have been both suppressed and depressed. All PET resin producers worldwide are subject to changes in raw material pricing. Raw material pricing is volatile, and it has generally been increasing. 2003 raw material price increase were significant for all producers worldwide, and both of the key ingredients, PTA and MEG, increased substantially.

While there have been periods during which Asian producers might have been slightly better priced for PTA, U.S. producers have generally been able to procure MEG at parity to Asia or better. In 2003, it is our understanding that U.S. producers and the producers in all the subject countries had PTA procurement costs that were at least highly comparable for some periods, and for some Asian producers their raw material prices were way above U.S. prices.

A couple of the U.S. producers represented here at the table are integrated and make their own PTA as well, so an argument that the Asians have a natural cost advantage simply doesn't fly.

Moreover, it's absolutely clear that the 2003 Customs values reported for each of the subject countries do not allow the subject country producers to cover their fully loaded costs. Look at these values in the next slide. Thirty four and a half cents for India; 38.1 cents for Thailand; 37.6 cents for Indonesia; and 40.4 cents for Taiwan.

Wellman is a world-class manufacturer. We cannot produce resin at these prices. I can't share Wellman's cost of goods publicly. However, look at my company's Cost of Goods Sold for 2003 as reported in our questionnaire response. It's not a pretty

picture, but it illustrates well the problems the U.S. industry faces from the pricing practices of the Indian, Thai, Taiwanese and Indonesian producers.

The approximate 10 percent share, which could be higher if you resolve the misclassification issues, resounds through the market in a way that magnifies the impact of the low pricing. At many accounts, the buyers use the presence of these low-priced imports to rachet down our prices to gain further concessions from us.

Thus, in 2003, several of our announced attempts to raise prices to cover rising costs failed. Similarly, in many individual situations we either walked away or lowered our price to the point where margins were badly eroded.

I'd like to point out here that Wellman has publicly reported a one cent change in price, if raw materials held constant, results in over a $14 million change in revenue. Just one cent. As others have pointed out here, the impact of the subject Asian imports can be several cents, not just one.

$14 million is a very significant sum to Wellman. After tax operating income for the PET resins segment, the segment that reports to me, was $14 million in 2003, our total after tax operating

income. That's how much one penny means to us. This business segment represents over 60 percent of Wellman's sales by volume.

The trend and results are apparent in the confidential questionnaire responses, but let me tell you about a few specific consequences for Wellman. We had planned to modify a fiber line in Pearl River, Mississippi, to produce bottle grade PET. This would have expanded our bottle grade PET capacity and reduced our manufacturing cost. The capacity expansion would have been 285 million pounds. However, due to the deteriorating market conditions caused in significant part by the low-priced imports, the expansion was delayed in December 2002.

We had hoped conditions would change and the plan could be resurrected, but conditions worsened through 2003, and the decision was made to delay the plant conversion at least until 2006. As a result, Wellman had to take a $140 million impairment charge on its 2003 financial results.

We have also had adverse employment consequences, including layoffs and compensation reductions, maybe even more than what Voridian has. These included five percent pay cuts for all hourly employees, five to 10 percent pay cuts for all

salaried workers and up to 40 percent reduction for all executives. Benefits were also reduced for all employees. Other financial consequences are discussed in our questionnaire response.

Unfortunately, we don't see any improvement in the situation unless the ability of the foreign producers to sell here below fully loaded cost is restrained, as the cost price squeeze that characterizes the industry is likely to continue for the foreseeable future.

Slide 8 reflects the raw material chain that eventually leads to PET resin. Raw materials for this product are petroleum based, and we all know what's happening with petroleum.

The next slide describes our view of where the markets are going for PET for PTA and MEG. In essence, things are going to be tight worldwide for the next couple of years, and it appears that neither U.S. producers or producers in the subject countries will see a reduction in raw material costs for some time.

As others have discussed, we simply cannot sustain operation and cannot possibly grow with demand if we are unable to make reasonable profits. There's no doubt that the imports from these four countries,

growing as they are and priced as they have been, have materially injured and threatened the U.S. industry with material injury.

Thank you.

MS. MANNING: Good morning. My name is Susan Manning of the CapAnalysis Group. I'm testifying today on material injury caused by unfairly traded imports of PET resin from the subject countries.

As these domestic producers have testified today, imports of PET resin from Taiwan, Indonesia, India and Thailand have increased about 324 percent during the period of investigation. This slide depicts the tremendous growth in subject imports since 1999 and in particular in the period 2001 to 2003.

Based on the best information available to us, we estimate that these imports accounted for more than nine percent of U.S. apparent consumption in 2003, compared to less than three percent just two years ago as shown in the next slide.

These import data are based on reported shipments under HTSUS subheading 3907.60.0010. We also believe that PET resins from at least two subject countries also is entering the United States under HTSUS 3907.60.0050. We have no way of independently

determining the amount of additional PET resin reported under this additional code. We suspect, however, this under reporting may be significant, and our estimate of subject imports' share of U.S. apparent consumption of more than nine percent is likely an underestimation.

Respondents will likely argue that these subject imports for PET resin are insignificant compared with U.S. domestic producers' share of apparent consumption. This position could not be further from the truth. These imports are significant in terms of both the absolute level of import volume and the change in volume during the period of investigation.

The volume effect of these imports on the domestic industry is both significant and substantial. To put these volume levels in perspective, the 2003 cumulated volume of these subject imports was greater than several of the individual seven domestic producers' U.S. commercial shipments.

As discussed earlier, demand for PET resin in the United States is growing annually in the range of five to seven percent. Since 2001, PET resin demand has grown by over one billion additional pounds. Subject imports captured over 30 percent of

this growth despite their so-called insignificant share of the market.

U.S. domestic producers are being shut out of an increasing and substantial portion of new demand for PET resin in the United States. How are these subject imports successful in capturing such a large portion of domestic growth? The answer is simple. It's by substantially underselling U.S. domestic producers.

Data reported thus far in the importers' questionnaire responses are extremely limited, so, using Customs value as a proxy for relative changes, the per unit value of subject imports declined 5.8 cents per pound from 2001 to 2002 and increased 3.8 cents per pound from 2002 to 2003 for a net price decline of two cents per pound as shown on the slide.

On a country by country basis, the net declines in per unit Customs values ranged from less than one cent to as much as eight cents per pound. During the same period, domestic producers' per unit value declined by more than the subject imports' per unit value decreased. The amount of this decline is confidential, but we will discuss it in our post-conference brief.

It is our understanding that a significant

volume of subject imports is purchased directly from these countries. The Customs values may indeed be a reasonable proxy for the transaction price of these imports. If this is correct, a significant volume of subject imports was underselling U.S. domestic PET resin by a substantial amount ranging from five to 12 cents per pound.

Underselling and price depression were definitely occurring in the market, thus placing further downward pressure on domestic prices. Price suppression, however, is a paramount cause of the domestic industry's material injury. Between 2002 and 2003, Petitioners' raw material costs increased by more than 18 percent on a per pound basis as shown in this slide.

While Petitioners' per unit value of U.S. commercial shipments declined, the competition from these unfairly traded imports prevented domestic producers from fully passing along these cost increases. Domestic producers simply have to absorb much of these increased costs.

The result was significant price suppression, particularly during 2003. This price suppression was further exacerbated by increases in other costs, such as energy costs incurred by

Petitioners during the period.

The impact of these subject imports on domestic producers of PET resin is without question material. As this slide shows, price suppression calls for these low-priced subject imports have prevented Petitioners from passing along these cost increases to their customers. Petitioners' gross profits have declined significantly in both absolute terms and as a percentage of net sales as shown in this slide.

Petitioners' net income before income taxes has substantially deteriorated, as shown in the next two slides. For confidentiality purposes, these graphs only show the relative changes in the financial measures. As you'll see, there's no axes here, but by anyone's metric these declines are substantial. Our post-conference brief will discuss these changes in detail.

The long-term effect on this industry from these unfairly traded imports has already begun. Demand for PTE resin in the United States is growing. Domestic producers have expanded capacity by about 500 million pounds during the period of investigation. Despite these significant new capacity additions, the increase in demand has actually resulted in an

increase in capacity utilization during the period of investigation.

These capacity expansion projects were planned before the influx of unfairly traded imports. Since these unfairly traded imports began affecting the market, domestic producers have now begun to shut down and delay new productive capacity despite the significant increase in demand.

For example, one U.S. producer recently announced the closure of production units due to low-priced subject imports. At least two U.S. producers have canceled plans to expand production. A U.S. producer has failed to obtain needed bank loans and had his credit rating lowered, thus adversely affecting this producer's ability to obtain funding for additional projects. Another U.S. producer shut down a PET plant with 100 million pounds of capacity in early 2002.

These cancellations and delays in new capacity expansions are not the result of declining demand for PET resin. As stated earlier, the demand is expected to increase by as much as seven percent annually for the foreseeable future.

As depicted in this slide, this growth represents a substantial demand for new productive

capacity in the United States. Unless these producers are able to return a reasonable level of profit, the industry's current modest excess capacity will be eclipsed by the increased and new demand within the next two years.

Domestic producers currently are able to satisfy all of the new demand being created in PET resin. If the domestic producers are to continue to share in serving the expected growth and demand, they must continue to make capacity investments. However, with the dismal profit levels and the returns on investment at current levels, these producers in fact are curtailing capacity expansion in the face of this growing demand. If this trend continues, domestic producers will be shut out of a substantial portion of this new demand as early as 2006 as shown in this slide.

The rate of demand growth for PET resin suggests imports will continue to be an important source of PET resin for U.S. customers, but these imports must be priced fairly in the U.S. market. PET resin is a commodity like product sold on the basis of price. Buyers of PET resin have been consolidating over the last several years, which has led to intense price competition to serve these few remaining buyers.

Consequently, low priced imports that are unfairly traded have a disproportionately greater effect on domestic prices than otherwise would be expected given their share of apparent consumption.

As described in Exhibits 64, 65 and 66 of the confidential petition, the lost sales and lost revenues from competition with unfairly priced subject imports has had a substantial adverse impact on these domestic producers. But for the unfairly priced subject imports, I would estimate domestic producers' profitability would be at levels that would strongly encourage and reward further investment in domestic productive capacity of PTE resin, thus positioning these producers to compete in this future demand.

The threat of further adverse effects from unfairly traded PET resin is intensified when one considers the substantial growth in the volume of these imports over just two years. As shown in the next slide, the amount of excess capacity in these four countries for exports relative to their own internal demand is enormous.

Assuming a healthy growth rate for each of these four countries of 10 percent per year, this excess capacity would not be dissipated by home market demand until 2023, as shown in the slide. This chart

doesn't even depict the announced increases of 1.4 billion pounds expected to come on line in these subject countries before 2006. This capacity is based on the capacity that existed in the market as of 2003 without the additional 1.4 billion coming into the market.

In short, the economic evidence before this Commission supports the finding that there is a reasonable likelihood that these subject imports have caused and threaten to cause material injury to the domestic PTE resin industry.

Thank you.

MR. HERTZBERG: Thank you very much. That concludes our presentation.

MR. CARPENTER: Thank you.

Mr. McClure?

MR. MCCLURE: Jim McClure, Office of Investigations.

A lot of discussion of the cost of the raw materials, PTA and MEG. First of all, for the domestic industry we asked this information, as you're well aware, in the producer questionnaire. How many suppliers of PTA and MEG are there in the United States, or do you buy from U.S. suppliers as well as foreign suppliers?

MR. DEWSBURY: Mike Dewsbury with Wellman. PTA is supplied primarily by BP. There is a producer, Intercesa, which has begun production in Canada, and with NAFTA that material is brought into the United States duty free. There's also a producer, Alpec, which is the parent company of DAK, that produces PTA in Mexico.

MEG is produced by Dow Chemical, Dow Carbide, which is the largest, Liondale Equistar and Shell are the primary producers.

Have I left one out, Hans?

I think there's a few smaller, but large chemical companies. Most of the producers are oil companies vertically integrated. These are offstreams of miczylenes and gas streams from their cracking processes.

MR. MCCLURE: Is there any other use for PTA and MEG? Do they sell for other products?

MR. DEWSBURY: For PTA and parazylene there is not another use other than polyester. Various polyester products were shown in their film, sheet products, besides packaging.

On MEG, antifreeze. Antifreeze for cars.

MR. MCCLURE: Glycol?

MR. DEWSBURY: Yes. Glycol is the other

primary use.

MR. MCCLURE: Someone mentioned that a couple of the firms are integrated and produce their own. Those would be?

MR. LANE: Voridian and DAK have the most integration I guess here.

MR. MCCLURE: And you produce them at the same site where you produce the PET resin?

MR. LANE: For DAK Americas, we produce it at one site. We ship it to the other two sites that actually produce the resin, so it's at a different facility.

MR. KINNER: And for Voridian we actually have two main sites. We produce polyester resin at both of those sites. We also produce intermediates, the PTA.

MR. MCCLURE: Now, further with respect to the PTA and MEG, the subject countries here, as well as non-subject. Where do they purchase their raw materials? Any idea? I mean, to the extent you know because it seems to be a relatively global industry.

MR. KINNER: Right. At my previous job I did procurement for four years for the polyester stream. I did that. I had some global responsibility for doing that for Voridian.

In particular, ethylene glycol. You can think of ethylene glycol especially nowadays is primarily produced in places where there's very low-cost natural gas and the associated ethane that goes with it, so Kuwait, Saudi Arabia, Venezuela, western Canada. Those are primarily the places where MEG is now being produced.

MEG is what you would really call a true, very fungible commodity product put on large ships, and it goes all over the world. It's a very largely traded product in that manner.

MR. MCCLURE: The companies producing in Kuwait and Saudi and western Canada and Venezuela, are they the same as those you named?

MR. KINNER: Yes. You've got Shell. You've got Sabic, which is the Saudi. You've got Dow. Dow has a plant in Kuwait. They've got one in Malaysia. They've got one in western Canada. They've got them in the U.S. Yes. They tend to be very -- they produce in a number of these regions. You've also got Exxon, which is associated.

The MEG in particular is a very global product. It's a way to put low cost natural gas molecules in a liquid form, put it on ships and ship it all over the world.

The PTA molecule is a little different because you start with parazylene or aeromatics, so you're typically talking you need to typically produce in a country that has a fairly large gasoline demand with refineries. It's a coproduct or byproduct or a product from an integrated refinery that tends to produce a lot of gasoline.

You start with the aeromatics molecule. You're primarily looking at countries with large refineries like the Japanese, the U.S., Europe, those countries that get to the aeromatics, the parazylene molecule. In fact, the U.S. is a net exporter of aeromatics.

Then when you get to the PTA molecule, the PTA, which is a powder -- parazylene is a liquid very similar to gasoline in physical characteristics. PTA is a powder, and it tends to be produced in the region where it's consumed, although there is still a fair amount of trade flow globally on PTA, but it's primarily produced in the region where it's consumed, although the size of a PTA plant is typically let's say four or five times larger than the size of a PET plant, so typically there will be a very large PTA plant, and they'll ship PTA kind of within that region.

BP is by far the largest producer in the world of PTA, but you've also got Giznell and Vista. That's the old Dupont ICI. Then you've got a number of Chinese, a number of others, you know, Mitsubishi, Mitsui, on and on and on.

Does that give you a general picture of the trade flows?

MR. MCCLURE: Yes. Thank you.

So you're saying in particular with Thailand, Taiwan, India and Indonesia that they are more likely to be importing PTA?

MR. KINNER: I don't have the specifics, but I believe all those countries do produce PTA locally.

MR. MCCLURE: Okay.

MR. KINNER: They do import MEG, and they import that parazylene portion of the molecule.

MR. MCCLURE: Okay.

MR. KINNER: They also make some locally, but I believe they import. I believe they produce the bulk of the PTA locally. There may be a little bit of imbalance, but we can get that.

MR. LANE: Mr. McClure, the companies producing the PTA in these countries tend to also be the same companies. BP. Fermosa, which is the parent company of Nan Ya, is one of the large PTA producers

in Taiwan.

MR. MCCLURE: In that regard, Mr. Petersen, do you ship to other subject countries?

MR. PETERSEN: We do ship to some other countries, but not to the U.S.

MR. MCCLURE: Okay. With respect to Voridian's closure of the plant in Canada, since it seems that virtually every U.S. producer, be they Petitioner or non-Petitioner, is somewhat international in scope and produces overseas as well as in the U.S., the plant in Toronto, was that used to serve the North American market -- just in phone conversations, it seems people refer to a North American market, which I assume is a NAFTA market -- or was that just to serve the Canadian market, the U.S. plant serve the U.S. market?

In short, were you shipping product from Canada down here?

MR. KINNER: There's a little bit of history there. The Toronto plant is actually just one-half of what a normal PET production plant would be. It's the solid stating portion.

We actually made the chip or the precursor for that facility in Columbia, South Carolina. We built that plant I guess it was in -- I can't remember

now -- the early 1980s, mid 1980s, something like that, late 1970s. I wasn't in the business at that time, but it was built to better serve the Canadian market at that particular point in time, and the business model justified doing that.

However, the Canadian market, also just because of a number of different issues and some probably confidential business things that happened that I can share with you, it no longer became economical for us to keep that facility running, but we did supply part of the -- you might say the raw material for that plant came from our Columbia, South Carolina, plant.

MR. MCCLURE: Now, do you produce in Mexico as well? Any of you produce in Mexico?

MR. KINNER: Yes, we have a plant in Mexico as well.

MR. MCCLURE: Is product from Mexico coming back into the United States? Now, if this is confidential obviously you can let me know later.

MR. KINNER: I'll go ahead and answer it first. Our plant in Mexico serves the Mexican market pretty much exclusively. We do export a little bit from Mexico into some of the other Caribbean and Latin American countries, but product does not flow from

Mexico to the U.S. for Voridian unless it's a very unusual supply chain thing.

MR. MCCLURE: A supply shortage or something.

Anybody else here?

MR. ADLAM: I'm Mark Adlam from M&G Polymers. Yes. With our plant in Mexico, there is a trade flow from Mexico up to the U.S.

MR. MCCLURE: Okay. In addition to what you already --

MR. ADLAM: Yes, in addition to what we produce in the U.S. Our plant in Mexico is largely to supply the Mexico market, but there is some export volumes as well.

MR. MCCLURE: All right. Thank you.

Any other Mexican producers?

(No response.)

MR. MCCLURE: With regard to the cold fill/ hot fill, just a guesstimate. What portion of your market is cold vis-a-vis hot? You can just ballpark it.

MR. DEWSBURY: That's going to vary by producer. For Wellman, hot fill is more like 30 percent of what we sell. It's a little bit hard to count those numbers.

Again, the resin itself is shipped in bulk rail cars to producers that can produce both a cold fill bottle and/or a hot fill bottle sometimes from the same resin. It's just a matter of what they want to run their process at, so it's an approximation of the number.

MR. MCCLURE: Any of the others care to --

MR. TAYLOR: I think, you know, we've looked at general market dynamics and have tried to break the categories down. I think you would probably see somewhere around a billion pounds of heat set product that is sold in the United States market.

Of that, though, the problem is like Mike mentioned. Some of that product sold as a heat set resin can be used in cold fill applications. There's nothing to stop them from doing that, so it's kind of hard for us to get the real numbers. I would probably put it around 800 million to a billion pounds of actual hot fill.

MR. MCCLURE: And of the entire market, both hot and cold, that accounts for what share?

MR. TAYLOR: Well, the United States market is about a 5.2 or 5.3 billion pound market, so somewhere in the 15 percent or 20 percent range.

MR. MCCLURE: Okay. In the market as a

whole, as opposed to your company's sales. Would everybody else generally agree with that? I mean, I know you said perhaps 30 for you, but as a general proposition would everybody agree with that?

MR. ADLAM: Yes. I would agree around 20. Maybe a little higher than 20, but around that.

MR. KINNER: Ours is probably 15 or 20. Frankly, some of it -- you see this array of bottles right here. Some of our customers, we don't always know. We have some resins that can, frankly, make any of those bottles. We don't always know, you know, which of their -- they have the arrangement with the brand owners directly.

MR. MCCLURE: Is the hot fill thing a relatively new phenomenon in the market?

MR. DEWSBURY: Defining new, it's been out for several years.

MR. MCCLURE: Right, but is there more use?

MR. DEWSBURY: It came out after carbonated soft drinks. Carbonated soft drink was the first in the marketplace, then hot fills. Probably more recent in growth has been water and is probably the largest growth area today for PET resin tends to be water products.

MR. MCCLURE: So all of that Disani I'm

buying is hot fill?

MR. DEWSBURY: No, no, no. That is a low end. Again, most of these resins are priced at the same price commodity.

MR. MCCLURE: But the Welch's over there, for instance, would be a hot fill product?

MR. KINNER: Yes, that's correct.

MR. DEWSBURY: The three to your left would be hot fill.

MR. MCCLURE: Yes. Okay.

MR. DEWSBURY: The water products grouped with Pepsi and Coke products there are --

MR. MCCLURE: Are the cold.

MR. DEWSBURY: -- typically made of the same resin that's in that Coke and Pepsi bottle, cold fill processing.

MR. KINNER: I think over the past three years, I mean, hot fill has -- I mean, you go to the grocery store. You know, consumers prefer if they can buy jelly in glass or spaghetti sauce, so those markets have replaced glass, and they have been a growing area, just as Mike mentioned water bottles.

Now, the hot fill is primarily those kind of food sorts of things. It has had real good customer acceptance in the grocery stores, so it has been a

good growth area.

MR. MCCLURE: Now with regard to the product coming in from the subject countries, and they don't seem to be in the hot fill. Is it because their product can't be used by the converter, or is it just that the cold fill is just a bigger share of the market so that's obviously where you would go?

MR. DEWSBURY: Yes, the latter. The cold fill is the larger share of the market. That's where they would tend to go.

We have one customer on the west coast that does import hot fill resin from one of the countries, subject countries, so they are able to produce it. It's just the volumes are larger in the cold fill area.

MR. TAYLOR: If you look at really the hot fill markets, the hot fill markets are predominantly the North American market and Europe. Those markets are more advanced in their life cycle of PET resin. It is moving into South America and Asia, you know, as the new products are then rolled out in those markets, so I think it's more of a life cycle change and that it's in the more advanced markets.

Like Mike did mention, I mean, we do see imported hot fill resin in the United States. Many of

them advertise it on their websites that they do have capability of producing. We produce it on the same equipment using the exact same process and the same raw materials. It's basically small, little additive changes.

MR. MCCLURE: Okay. Fine. Thanks. For right now, that's all I have. I'll let my colleagues fire away.

MR. CARPENTER: Mr. Haldenstein?

MR. HALDENSTEIN: Could someone please comment on the assertion that demand is related to the season and weather?

MR. ADLAM: Yes. I'll comment a little bit. Mark Adlam from M&G.

For sure we have a seasonal business. We're in the drinks business, so the summer being hotter typically there's higher demand, so we have a cycle of demand.

I think what we've all said is that there's plenty of growth in our industry. Our product is popular. It's growing with substitution, so even though there's a cyclical element year on year there's sustained growth of PET, or there has been really for 20 years.

MR. TAYLOR: One of the big changes that we

have seen, though, is the cycles are becoming smaller. I mean, if you go back 20 years ago, PET resin used to just be carbonated soft drinks. There was huge seasonality in the summer months.

Now that you're moving into some of the other products -- the household cleaners, the food, water, things like that -- the cycles that we are seeing are becoming less and less.

We're never going to get out of no cycles in our business. You know, when you're dealing with 40 or 45 percent of our business being the carbonated soft drinks that's the way it's going to be, but they are becoming less predominant.

MR. HALDENSTEIN: Thank you.

One other question. Is the import competition mainly on the west coast, or is it throughout the United States?

MR. ADLAM: I would say it's throughout the United States. There's a predominance on the west coast, but there's also some supplier advantages to supply other areas of the U.S., so we also see it in other regions as well.

MR. HALDENSTEIN: With respect to transportation costs, are they significant for this product or relatively minor?

MR. ADLAM: Do you mean delivery costs?

MR. HALDENSTEIN: Delivery costs.

MR. ADLAM: For ourselves, they're reasonable sized costs. When you define significant, I would say it's like six percent, seven percent of the selling price, something like that.

MR. DEWSBURY: It's the next largest cost after raw materials.

MR. ADLAM: Right.

MR. DEWSBURY: Transportation.

MR. KINNER: Yes, but it's in the sort of in between five and 10 percent, depending where --

MR. DEWSBURY: Right.

MR. KINNER: -- you're going in the country. You know, raw materials are by far the overwhelming cost element.

MR. HALDENSTEIN: Those are the only questions I have now. Thank you.

MR. CARPENTER: Mr. Workman?

MR. WORKMAN: Yes. First, let me ask Ms. Manning. I noticed -- I was just wondering about in looking at import prices you emphasized the average unit value of customs. I was wondering, that's not a very good indicator of what the ultimate price of these things would be in the United States. I was

wondering why you chose that instead of perhaps something like CIF values or land at duty paid values.

MS. MANNING: Actually, for this product we believe customs may in fact to be a good proxy, because our understanding is that a lot of the product is purchased directly by U.S. -- U.S. customers are purchasing directly from the country. So it would more closely reflect the sales prices.

MR. WORKMAN: But wouldn't they ultimately, whether they bought directly there or not, wouldn't they ultimately have to bring it back here, and then they would have the transportation cost across the ocean that would add to the final price?

MS. MANNING: Well, that's so, but the bottom line is that the analysis doesn't change much.

MR. WORKMAN: No.

MS. MANNING: Because if you look at the CIF values, they are still substantially below where we believe the average sales prices are for the domestic producers.

MR. WORKMAN: Would that still be true of land to duty paid value, you know, when you actually include the tariffs and so on?

MS. MANNING: I believe that's true.

MR. WORKMAN: You still believe it's still

lower?

MR. HERTZBERG: That clearly would be true particularly because three of the four countries at this point have GSP benefits.

MR. WORKMAN: Oh, okay.

MS. MANNING: Yes.

MR. WORKMAN: I see what you mean. Okay.

Okay, I had a question for Mr. Dewsbury. Now, I understand -- you were mentioning a lot of competition from imports from Asia on the west coast. But I understand that much of the industry in the United States is based in the southeast. I don't know about all of it, but a lot of it is.

Is it really very competitive, assuming something was coming from Thailand or Taiwan or whatever, is it very competitive from your plant and sell in that area in any case even if they weren't there?

You mentioned the shipping costs being fairly significant. I was just wondering, is that the problem, the shipping costs? If they have something that comes into the west coast from --

MR. DEWSBURY: U.S. manufacturers are advantaged in transportation due to the fact that we have the most developed rail infrastructure in the

world. Most of our product is shipped via bulk shipment rail.

MR. WORKMAN: Okay.

MR. DEWSBURY: So the cost per pound is lower. The subject countries bring material in via ship, which in bulk container, typically large, 2,000 pound bags which have to be containerized. Our customers are not set up in the United States or in North America to handle bulk bags. They debag into --

MR. WORKMAN: Okay.

MR. DEWSBURY: -- rail cars or bulk trucks, an added handling cost, and then incur the same inland freight that we would have.

MR. WORKMAN: Sure.

MR. DEWSBURY: So our freight costs, even though we are in the southeast, and we're all there for a reason, you know, are better than the agent competition.

MR. WORKMAN: Well, is there any company here where the west coast is a major market share, you know, of your business or is it located other places primarily?

MR. TAYLOR: Well, I would like to add that of the PET market in North America over 70 percent of the volume in North America from our converters, our

customers, is in the eastern half of the United States.

MR. WORKMAN: Okay.

MR. TAYLOR: That's where our customers' plants are.

I wanted to add a little bit to what Mike had mentioned. I mean, we have done a lot of studies on that, and I can give -- we can provide some in depth numbers. But the actual transportation costs from our plants to the west coast are below the cost from getting it from these four subject countries to the west coast.

MR. WORKMAN: Right.

MR. TAYLOR: When you take the ocean portion --

MR. WORKMAN: Oh, sure.

MR. TAYLOR: -- and all of that, we can still deliver products at a lower transportation cost than they can, and we still do not believe our cost to manufacture are any different than theirs for our raw material or cost of production standpoint.

MR. ADLAM: I would add that we used to have a large share on the west coast. That's one of the points, I guess, is, you know, low pricing from the Asians unfair, competitive pricing has driven us out

of that market. So you know, it used to be a strong area for us. Right now it isn't.

MR. WORKMAN: Okay.

MR. DEWSBURY: Because of the cost of shipping filled product or empty bottles, most of our customers are located near population centers. That's their final consumer.

MR. WORKMAN: Makes sense.

Okay, I had one question for Mr. Kinner with respect to this MEG and PTA. These are such a major input. We have got the data. We haven't got it all computed yet by any means. We're still assembling. But is it reasonable to assume when we see things laid out that as the prices of these materials bounce along the prices will move in exactly the same direction and they will be closely correlated; you know, the cost of PET, are you saying will be closely with the cost of materials?

MR. KINNER: So is your question, Mr. Workman, that the selling price of PET ought to follow the price of raw materials?

MR. WORKMAN: That's what I was wondering. Is that the case generally, do you think, or not?

MR. KINNER: Well, you know, in most commodity businesses, which PET is going, you know,

trending to be a commodity business like a polyethylene, polypropolene, that would be the case; that certainly with the margins we have in this business we have to be able to pass through raw material costs.

And for example, last year when the Chinese were producing a lot of polyester fiber, and there were some operating problems with parazylene, parazylene prices went up nearly 30 percent per month for two months. And for example, we tried to pass a lot of those prices through. We got some of them through. On the other hand, we had a lot of customers that had fixed price deals from Asian producers.

I sat in the office across from one of those deals and said, sorry, they are not going -- they can't do that. It's impossible.

MR. WORKMAN: Right.

MR. KINNER: Sorry. That's the deal, and now last year was a very significant raw material run-up, but yes, sir, I mean, ideally we have to be able to pass through raw material costs with the kind of margins we have in this business. We're not always successful at doing that. I think we try to do that, if that's a good enough answer.

MR. WORKMAN: That sounds reasonable. We'll

see what the data show anyway. We haven't got it all assembled yet, so we'll have to see.

Okay. Well, thank you. I don't have any other questions.

MR. CARPENTER: Mr. Boyland.

MR. BOYLAND: Good morning. Thank you for your testimony. I have a couple of general questions which I'm not sure exactly who to direct it to. To the extent that it's business proprietary, you can indicate so.

But starting off with tolling. I know some companies are engaged in tolling either as the toller or the tollee, and I know some aren't. But I guess for the people that do tolling, I'm curious as to sort of the logistical aspects.

Does the tolling product get shipped directly to the end customer? Does it become part of inventory at the toller? I kind of want to get a better picture of the tolling.

MR. DEWSBURY: I think tolling is typically a term used more with our customers and their customers, that resin can be purchased by an end user and toll-processed through a bottle converter into bottles. But if by tolling you mean shared manufacturing, we don't toll process raw materials for

BP. We buy our raw material and we're responsible for the risk involved in that. But we do produce amorphous PET in our Palmeto, South Carolina facility.

Voridian solid states that material and we share equally the output and the costs of that operation.

The reason for that was low pricing, low margins in the marketplace. We both had existing assets which for little or no capital investment could be turned into producing assets. And while both of us probably would have liked to have built capacity, the realities were you could not afford -- there is no return on the investment, so we minimized investment.

MR. BOYLAND: And that was really -- I mean, I'm referring more to the traditional tolling in which some manufacturers are apparently providing raw material to other manufacturers to produce the PET resin?

MR. DEWSBURY: Not in our case.

MR. KINNER: Mr. Boyland, we have done some of that in the past, and some of that's confidential, but I'll be glad to share that whole process with you.

MR. BOYLAND: I probably was not a good general question, but some companies have indicated that they do tolling, so maybe it's something I need

to --

MR. ADLAM: Yes, we have the same thing. It would be business confidential, but we would be happy to share things with you.

MR. BOYLAND: Just more of a general picture, you know, just point A to point B, where is the product going, et cetera.

Anyway the other question is more of a -- to the extent we have an incomplete data set, some companies, one, hasn't provided 2003 financial results, and without that I'm afraid we can't present a full picture.

MR. LANE: We anticipate having that data to you today. We have two parties that have all that information. Those numbers have not been audited, and we want to take special care to make sure that we give you the correct information, and we have had an issue of the -- actually the holiday weekend affecting that, that parties were out of the country, and we could not get a hold of, so we do anticipate that information to you today. We apologize for that.

MR. BOYLAND: I appreciate that. Now, that's 2003.

We had an issue with 2001, and the extent to which the full period had not been reported.

MR. LANE: In 2001, our company was formed in July of 2001, so we have reported from the time in which the company was formed in 2001, basically being half a year. So we could make the assumption for, you know, the previous half of the year being owned by another company, but we wanted to produce the information that we had at hand.

MR. BOYLAND: Okay.

MR. LANE: So we have footnoted that appropriately in the document. But if there is something further that is needed, we will certainly be glad to address that in the post-hearing.

MR. BOYLAND: Okay. I believe that is something that we would be looking at even though there was a change in ownership, et cetera. If we don't have the first period, the trend is going to look -- it won't look the way it really is in effect because we won't have the first half.

To the extent that you can fill out the first half, that would be very helpful.

MR. LANE: Well, one of the main issues that we have in filling out the first half is that we don't have access to that data as a result of the company changeovers, and that most of those financial systems were in place with the previous owners, which was

duPont. So we don't really have a lot of that information from that previous half a year, but we will certainly be glad to provide what information we do have and to make whatever assumptions that need to be made that we feel comfortable making that generalized assumption.

MR. BOYLAND: That would be very helpful.

MR. LANE: Okay.

MR. BOYLAND: Thank you.

MR. LANE: Thank you.

MR. BOYLAND: With respect to the table we requested, something that we don't normally request in Table 3-7 assets, current and noncurrent, et cetera, it's more of an attempt to be able to calculate a return on investment for each company, we're doing that in all cases going forward, and we would certainly be interested in your insight as to other possible ways of calculating that number, so that's just kind of a general if you have comments, suggestions.

MR. KINNER: That was how to calculate return on investment? How to calculate return on investment?

MR. BOYLAND: Yes. Yes.

MR. KINNER: Okay.

MR. BOYLAND: And you know, there are probably a thousand different ways to potentially do it, but we want to make it in a way that producers are capable of providing us the information reasonably.

MR. DEWSBURY: Yes, I'm not sure I understand. Are you asking us to provide you something in the way of what our return on investment is?

MR. BOYLAND: No. Actually, we have already asked you the information. The denominator number has been provided.

MR. DEWSBURY: Right.

MR. BOYLAND: The numerator number has been provided. We're just sort of feeling our way forward in terms of the best way to collect the information.

MR. DEWSBURY: Where there is multiple segments within a business, it can be confusing. We are willing to provide -- we have in the United States, you know, a single PET plant which was built in Pearl River, Mississippi. We could provide the return on investment, actually what we thought we would get, and what we have actually gotten from that plant. Confidentially we could provide that.

MR. BOYLAND: That would be very helpful.

MR. HERTZBERG: And we'll address in a

general way also what the reaction has been and try and answer that, and just giving you what our thoughts might be.

MR. BOYLAND: That was the gist of my --

MR. HERTZBERG: The other comment I wanted to make is there is never a bad question from the staff.

MR. CARPENTER: Mr. Boyland, correct me if I'm wrong, but I think maybe also part of the question is the way we're defining return on investment is operating income divided by total assets.

MR. BOYLAND: I'm sorry. That's correct. We're taking your operating income, dividing it by the actual assets for that period. We're not dividing it by beginning and ending, et cetera.

So you know, to the extent that it can be fine tuned, we would be more than happy to consider any suggestions.

I have no further questions. Thank you.

MR. CARPENTER: Mr. Cantrell.

MR. CANTRELL: Ray Cantrell. I'm the industry analyst. I look at the technical side. The first question I had is just regarding the polymerization process.

Would you describe solution suspension, melt

phase, other, or could you give just a brief description of polymerization?

MR. DEWSBURY: It's melt phase polymerization. And I'll go further that the technology is one that's come from the polyester fiber industry, so it's a technology that's over 35 years in age, developed originally by duPont and ICI, and it is the technology which is utilized both by everybody at this table, plus the subject countries, sold by the same technology suppliers around the world.

MR. CANTRELL: I would take it that with time the efficiency or the processes have been improved upon as far as economics?

MR. DEWSBURY: Yes, the process looks very much as it did 30 years ago, but much larger. The last major step was in, I believe, early seventies -- in fact, it was 1972, I think, when it went from batch processes where PTA and glycol were combined in tanks and mixed for a period of time, and then dumped. Multiple reactors set up in a room to what was called CPs, continuous process units.

Since then the only change made has been the size of the units to reduce capital cost per pound.

MR. CANTRELL: Something else that I don't understand, I mean, I know the basic fundamentals.

But when you talk solid stating of the resin, I understand that this has to be done to produce the bottle-grade resin.

What is involved in that?

MR. DEWSBURY: The solid stating is just what it says it is. You know, our process is polymerization. We start with PTA and glycol and react those together forming a polymer chain. At a point in time it becomes cost ineffective to continue that polymerization process in the melt process. It gets thicker, harder to work, bigger vessels, bigger shafts, very high cost at that point.

It could be polymerized in a melt phase considerably higher, but its cost -- it's not cost effective, so at a point, and various processes do differently, you break off that polymerization, cool the material down and cut it into chips. It then is a solid, and so then you continue the polymerization the solid form, solid state polymerization. So it's a continuation of that same polymerization process, but now you no longer have a melt. You have a solid chip which you don't want to remelt or stick together. You have to keep them as distinct chips, and continue to polymerize, drive off the glycol, continue to form the links and extend the chain of the polymer.

MR. CANTRELL: Okay, so then can you extrude that material into the pellets that we saw here?

MR. DEWSBURY: The pellets that you saw here were solid stated pellets. Off the polymerization unit, the continuous process unit, you come with melt strands. The melt strands are cooled in a liquid bath, water, and then cut. That chip is then solid stated up in IV, continuing to make it thicker, but it's all done in a more dense in a solid phase by driving off water, or driving off glycol from the chip.

The extrusion past that point is what our customers do. They then reheat that pellet in an extruder and melt it, and force it through dyes into the preformed shape.

MR. CANTRELL: Okay, thank you.

Oh, another question I had in regard to sold stating. Are there any other products outside of the bottle-grade resin that requires sold state?

MR. DEWSBURY: Yes, tire cord utilizes a higher IV material, and strapping, which is similar to a tire cord but thicker strapping for bales, for bundles of bulk material is made out of polyester, typically uses a very high IV material that requires solid stating.

MR. TAYLOR: Tire cord would be approximately a 10 IV type of product, and what we're talking about is .68 to .86 IV range. So you are talking about quite a dramatic increase in IV for the tire cord.

MR. CANTRELL: But then I take it just a regular polyester fiber would not be solid stated?

MR. DEWSBURY: No. In fact, polyester fiber does not use solid stating. We use -- you go with melt polymerization through the -- instead of dye heads you come out through packs, spinning packs to make fiber, and to gain the strength, we gain the strength by solid stating to continue the links. In fiber, they use drawing. They stretch the fiber, and that imparts a strength to it that you -- a physical orientation. But they start with a lower IV, very similar to the amorphous that we would start with going into the solid stater.

MR. CANTRELL: I have an understanding of the way the product is shipped from the other staff questions, but I take it that it's bulk, but it sounded like the foreign material came in in poly bags or large super sacks or something of that nature?

MR. DEWSBURY: Yes. Our customers, especially in North America, are set up on bulk

containers, primarily rail car. For any distance under 250 miles, typical bulk trucks can be competitive, but it shipped as just -- well, 50,000 pounds in a truck or 200,000 pounds in a rail car.

The reason the Asian come in in the bulk bags is just trying to keep the product clean, trying to keep moisture out. They have distinct packages, either 2,000 pound bags or there is a super sack lining of a container, bulk container which is the same, but requires special handling on this side.

U.S. is different than much of the world because of the infrastructure of rail system that exists.

MR. CANTRELL: Would you perceive that the quality of the U.S. product is superior to the exports?

MR. DEWSBURY: They have the same technology from the same manufacturer. We buy Zimmer lines for our polymerization, Bulker Solid Stating, it's public knowledge, and that's the same material or the same equipment that much of the industry in the subject countries uses, and they buy raw material from the same supplier, BP and Dow.

So no, our material is the same. Our recipes can vary, but it is polyester.

MR. CANTRELL: Something, I believe the gentleman from DAK mentioned is that you do and add it to hot fill product?

MR. COFRANCESCO: Basically the difference between hot fill and cold fill is in many cases through the process of converting it into a bottle versus the resin itself, but the resin itself is made by the same equipment, same employees, and in the same facility. Those materials are just combined differently with regard to the recipe as Mr. Dewsbury referenced as in maybe different times, or different temperature hold up, but there could also be additives that are put in at the request of many of the customers.

MR. CANTRELL: Thank you.

Is there any advantage to using dymetholterephthalate versus terephthalate acid?

I now I assume that some parties use the dymetholterephthalic.

MR. KINNER: If I can speak. We produce PET from DMT as well as, I guess, we're the only one besides Coastal, which is the only producer not represented.

DMT is the old technology of producing terephthalic acid. Terephthalic acid PTA is a powder,

and it's a very pure terephthalic acid powder. The original technology before purified terephthalic acid was DMT, and the primary reason is because it was the most efficient process at that time to make the terephthalate pure enough to be able to be reacted into polyester.

Now, there are no more DMT plants being built in the world. There won't be any more built because it's -- you know, it's got high energy costs and there is some -- it's sort of an older technology, but we have that technology, and we've had it for many years, and we've been able to still maintain it, but it really only represents probably less than half of what our total capacity using more.

MR. CANTRELL: Thank you.

Do the subject country manufacturers have an advantage in ethyleneglycol production because of lower gas prices over in the Middle East where I believe it was said that most of their product came from?

MR. KINNER: Well, if you look at most of the trade flows on ethyleneglycol, at least in modern times, again, they tend to be produced in places where there is very low gas costs, western Canada, Kuwait, Saudi Arabia. Those countries, you know, much like

the crude oil that they export, they have very small polyester production.

The polyester production is -- you know, it's in Asia with textiles, those kinds of things. So what happens is MEG, at least in my estimation, and having bought it in most regions, is fairly -- a fairly global traded product with global pricing that's very similar in all regions because of that. So it tends to be made in places where you have very low excess gas, but it's rarely consumed in any significant quantity in those areas.

MR. CANTRELL: Okay, thank you.

Just shifting to plant capacities, it appears that about three of the seven plants in the United States did some type of debottleneck or expansion since the year 2000. I think that comes up to 20, 15 and 20 percent capacity increase.

And I believe the most recent is the DAK expansion. Just something I wanted to refer to in Plastics News in March 25th. It said that the bottle water market was growing about 25 percent, 20 to 25 percent, and it also mentioned that according to plant executives that the production was strong, and apparently the plant was running near capacity.

MR. COFRANCESCO: And that was March of this

year?

MR. CANTRELL: Yes.

MR. COFRANCESCO: Yes, we did build a new facility last year, and basically opened it up in June of last year, and that just doubled our capacity to 660 million pounds a year, so we have been selling that plant and have had good utilization at this point in time.

MR. CANTRELL: Thank you.

And then I was told that M&G was building and expanding in Mexico, rather substantial expansion there.

MR. ADLAM: Yes, we have just built the world's largest PET line in Mexico, and yes, it's running well, and yes, we have just completed that.

MR. CANTRELL: Thank you.

One other thing, and this is in regard to recycling. I think maybe a little bit of recycle goes into bottles, but regardless, I noticed, and again this is according to Plastics News in April 2, that Wellman and Nun Ya who were members of NAPCR are no longer members, exited the recycling membership. And it was also stated in this article that recycling has declined from 40 percent of total PET bottles to 20 percent.

And my question is, even though I realize that not a lot of recycle goes into bottles, but the industry being stressed raw materials-wise, I mean, there seems to be, you know, with energy prices up for both natural gas and petroleum, wouldn't a decline in the recycling just further stress the raw material situation?

In other words, just possibly cause prices to escalate further?

MR. DEWSBURY: Let me address the question. Wellman did withdraw from NAPCR. NAPCR is not a recycling body. It is National Association of PET Container Resources. While it focuses on recycling, its mission is to foster the growth of PET in the marketplace.

Wellman is the largest recycler of polyester in the world. We have a large plant in Johnsonville, South Carolina, which buys bottles from the United States. In fact, buys bottles from North America, grinds them, cleans them, and turns them into other products. Principal among those products is fiber. Fiber fill being the largest area of that, paddings for cushions, pillows, sleeping bags, quilts where color is not an issue.

The market of PET, it is limited for the

amount of bottles that will come in. Recycling has not been a very profitable business. While raw material costs in things like aluminum are high, relatively speaking raw material costs, while they are increasing, versus the value, are low versus what it costs us to take a bottle, which is very light, hard to transport, get it back to a single location, grind it, clean it, and it has to be cleaned exceptionally well.

People use these bottles for a lot of stuff besides their intended original use. All that material has to be cleaned off, and the FDA requires that we dose them in such ways that we introduce them to things like pesticides in high boilers, that they have to be cleaned off in your washing process.

It's a very energy-intensive, very labor-intensive process such that the final resultant product prices itself out of the marketplace. It's not cost effective, especially to go back into these bottles which require clarity. Little bits of label glue proving haze are not something that is typically desirable in most of these bottles.

So while it does -- if there were enough recycle available, it could decrease the demand on raw materials, but because of the high cost of getting

large volumes of recycle back, there really is not much ability for it to dramatically reduce virgin raw material costs.

MR. CANTRELL: Okay, thank you. That's all I have. Thank you very much.

MR. McCLURE: One thing I wanted to alert Mr. Hertzberg, and this may test your statement that there is no such thing as a bad question. I will, and this is just so everybody knows, be getting to the domestic industry just a very short supplemental data request that hopefully will help us clarify the tolling. We just want to be very mindful of the potential for double counting and be darn sure we haven't. So I will be getting to that hopefully this afternoon. And if you want to revise your statement, feel free to do so.

MR. HERTZBERG: No, I'll stand by my prior statement. That doesn't happen often here in Washington, I know that.

(Laughter.)

MR. CARPENTER: I have a few questions also. Most of these relate to the slides that you have presented, but I have one question before that.

A statement was made that there are relatively few large U.S. customers. I was wondering

if you could -- this is probably more of a request for your post-conference briefs -- if you could identify who those companies are, and provide to the best you can what percentage of U.S. consumption of the product is accounted for by each of those major customers, so we can get an idea of just how much concentration there is.

MR. HERTZBERG: We'll supply that in a post-conference.

MR. CARPENTER: Thank you.

Just a few questions on the slides. First of all, I will indicate that your entire package of slides will be incorporated into the transcript.

On the first slide, and I guess, Mr. Kinner, I could start with you because I think you discussed the first few slides.

MR. KINNER: Yes.

MR. CARPENTER: On the first one where you talk about forecast capacity for 2004 and 2005, you indicate some significant increases in capacity, and the source of that is Exhibit 10 of the petition. And I apologize, I don't have that with me. But what I'm interested in, to the extent that you have not provided it in the petition, is what your source is for each of these increases in capacity.

In other words, was it based on market intelligence? Was it based on press releases from the foreign companies themselves or what?

MR. KINNER: Yes, in fact, we talked about this a little bit yesterday. This is -- I believe Robert helped put some of this information together, but I believe it's the best estimate by three prominent consultants in this industry. They are all a little bit different because of, you know, different assumptions that they are making.

But I think these capacity additions can be backed up by both, you know, a number of third party independent sources, both publications and consultants in the industry about these announced capacities.

MR. HERTZBERG: If I could amplify on that. I think also in the petition you will find many announcements by the companies in the subject countries themselves in which they announced their own capacity or the trade press in those countries announces the capacity. And a fair amount of the information is also taken from those primary sources.

MR. DEWSBURY: One other source, again, the equipment manufacturers, Zimmer, Beuler, UOP, talk quite openly as to who they have sold machines to, and that's a public list that's available as to where

their next installations will be.

MR. CARPENTER: Very good. That's what I was looking for. So to the extent that that's in the petition, we will take a look at that. To the extent that you have any additional documentation, feel free to provide it in your brief.

In the next couple of slides where you are comparing subject country demand with capacity, and then in the following slide you defined excess capacity in the subject countries as essentially the amount by which capacity exceeds home market demand, the Commission typically defines excess capacity as the amount by which capacity exceeds production.

Your definition appears to leave exports out of the equation, and what I'd be interested -- I mean, you know, it appears to show a very large amounts of excess capacity, but I'm wondering what the charts would show if you add exports into the equation, because it's not unusual that in these cases where the home market very often is a small -- does account for a small share of the company's total production, and the majority of their production is exported either to the United States or a third country markets.

MR. KINNER: I believe we can develop that information for you.

MR. CARPENTER: Okay, fine. And I'll note that to the extent that we have good responses to our foreign producer questionnaires we'll have all that information, and I haven't seen those responses. To the extent that they may be incomplete for certain countries, then we would also be interested in what your estimates are.

Okay, the next slide, I believe, Mr. Dewsbury, you discuss this, and that's the EU -- the duties that were imposed by the EU on PET resin from India, Indonesia, Taiwan and Thailand. In your chart, and I apologize if I've missed this in your direct presentation, but the chart indicates that provisional duties were imposed sometime in 2000.

Were final duties ever imposed?

MR. HERTZBERG: Yes, final duties were imposed. In fact, the numbers, I think, reflect the final duties that were imposed.

MR. CARPENTER: That was the other question. Okay.

MR. HERTZBERG: And they are still in effect.

MR. CARPENTER: Okay, so the duties on the next two slides are the final duties?

MR. HERTZBERG: That's correct.

MR. CARPENTER: Okay, thank you.

I guess another question, and I'm sorry to back up to the excess capacity question again, to the extent that you believe there is substantial excess capacity in the foreign subject countries, my question would be, why would these countries increase their capacity over the next two years so significantly if they had so much excess capacity to begin with?

MR. KINNER: That's a very good question. Frankly, from the way we understand business models, I could not answer that question. I certainly could not get my board of directors to invest.

Just a very brief historical comment. All these countries from about '96, '97, were all net importers of pretty much all these polyesters. And within a very rapid, short period of time all became non-importers and became all at the same time became huge exporters, almost every single country, and it was almost as if I'm building one here, well, then I've got to have one, I've got to have one, I've got to have one, I've got to have one, and now we've got them.

MR. CARPENTER: Okay, thank you, Mr. Kinner.

MR. DEWSBURY: On that same, the Korean business model was much the same. They built a lot of

capacity and eventually went bankrupt, but the damage they did was real, but they sold below cost for quite sometime, and that's what we're seeing now. There is no economic justification that our company could build these plants on at today's margins, or certainly the margins that they are at. Yet they continue to build.

By the time they eventually realized that, it may be too late for us.

MR. CARPENTER: Thank you, Mr. Dewsbury.

MR. TAYLOR: Part of the information that we will provide about the expansion in the subject countries is from the equipment manufacturers, but if you actually will look at the data, out of the 10 or 12 PET plants being built around the world, 95 percent of them in the last two or three years have been in Asia, even with this excess capacity.

So the trend, you know, is still there today. We don't know how.

MR. CARPENTER: All right, thank you. And of course, we will invite the respondent parties to comment on this afternoon.

Finally, Ms. Manning, if I could just ask you a few questions about the last few slides in here.

I think to some extent you have maybe adopted some of the same definition of excess

capacity, but let me ask you.

I guess the third from the last where you compare U.S. current domestic excess capacity with the growth in demand, how are you defining excess capacity there?

MS. MANNING: Again, it's the same approach. What we're looking at here is just a measure of what the actual excess capacity is available beyond the home market demand. And what we are trying to show here is that there is a huge, enormous export potential, and that we believe that much of that export potential is directed towards the United States.

MR. CARPENTER: Okay, fine.

Now, in the last slide that you describe as export potential, I mean, you are projecting increased demand at a rate of about 10 percent each year, but you're assuming that there are no increases in capacity. That's a decision to hold capacity constant even though you are projecting that capacity will increase in these countries?

MS. MANNING: That's correct. It was a conservative approach. We're holding it constant at 2003 even though we know that within the 2004, 2005 time period there will be an additional $1.4 billion

of additional capacity added to this existing 2003 capacity.

MR. CARPENTER: Okay. So then is it fair to say in the last slide that the export potential that you show would actually -- would not be reduced as much as what it appears to be because capacity is actually increasing over this period?

MS. MANNING: That's correct.

MR. CARPENTER: Okay.

MS. MANNING: Right. The export potential should be actually higher, much higher.

MR. CARPENTER: Okay. All right, that completes my questions. Does anyone else have any follow-ups?

Okay. Well, thank you very much to this panel for your coming here today and for your presentation and your responses to our questions. We appreciate it.

MR. HERTZBERG: Thank you.

MR. CARPENTER: At this point we'll take about a 10-minute recess, and then we will ask the respondent panel to come forward for their presentation. Thank you.

(Whereupon, a short recess was taken.)

MR. CARPENTER: Welcome back.

Ms. Esserman, please proceed whenever you are ready.

MS. ESSERMAN: Thank you again. For the record, I am Susan Esserman appearing on behalf of Reliance Industries, an Indian PET producer. I will provide an overview of the defense on behalf of the producers from the subject countries, Indian, Indonesia, and Thailand.

You will also hear from Bruce Malashevich, President, Economic Consulting Services; Steven Ziehm, Vice President, International Business Government Counsellors, a broad coalition of consumer companies and trade associations; Dan Mullock, Vice President, Constar International, and a purchaser of both domestic and foreign PET resins; and Matthew McConkey who is accompanied by Kay Georgi of Coudert Brothers Council for Indian and Thai producers.

Also here at the table with me is Tina Potuto Kimble of Steptoe & and Johnson, and we also have Sandy Sierck from Indian PET producer, SAPL, and I think I have just one other person if I might, sorry, David Lorello also from Steptoe & Johnson.

I would like to begin by discussing a number of conditions of competition in this industry that are critical to the Commission's analysis of the claims of

injury and threat of injury you have heard this morning.

Consideration of these factors make it clear that the subject imports are not causing or threatening injury to this industry.

First, this is not an industry susceptible to injury by reason of imports generally let alone by the modest presence of subject imports. A fundamental condition of competition, as you have heard from the testimony this morning, and from the questioning, is the integrated nature of the North American PET market.

All of the companies, the petitioning companies produce in either Mexico, Canada, or both, or have affiliates there. U.S. producers control virtually all NAFTA production and thus approximately 50 percent of U.S. PET resin imports.

The significance of this condition of competition is that prices of PET resin in the United States are established on the basis of supply and demand in the NAFTA region overall, not just the United States.

Second, all U.S. producers are globally competitive either through production, exports, or both, and U.S. producers and their affiliates control

at least 40 percent of the world's PET resin production.

Three of the U.S. companies supporting the petition are foreign owned, and these global competitors export twice the volume of subject imports even at their peaks. The global strength and resilience of the U.S. industry reflects a lack of vulnerability to the marginal players that are the subject of this investigation.

Third, demand for PET has been growing briskly in recent years in the U.S. and worldwide. All industry analysts, as well as petitioners, project growth in the U.S. market of between seven to 10 percent per year for the foreseeable future. Growth in many of the emerging markets where subject countries are expected to direct their production -- Here again I emphasize exports, not just selling in the home market -- are growing at an even brisker pace.

Fourth, one of the primary reasons that PET demand has grown so rapidly and is expected to continue to expand is the conversion to plastic from other packaging materials such as aluminum and glass.

As you will hear from Mr. Mullock of Constar, a major U.S. consumer of PET resin, again

both of domestic and foreign PET resin, intense competition especially between aluminum cans and plastic bottles serves as a limit on price increases that the U.S. industry can pass through even in times when the cost of raw materials for PET are high, or I might say -- well, actually, I'll stand with what I just said.

The last point, this last point, this limit on price increases is particularly critical because as you heard this morning or as you could see from the testimony this morning the crux of petitioners' case is that subject imports have prevented petitioners from passing through cost increases to their customers.

In fact, the record shows no connection to imports and a myriad of petitioners own statements reenforce this point.

First, the fundamental change affecting the U.S. market in 2003 was the introduction by U.S. producers of nearly 600,000 metric tons of new capacity in North America. Four of the six companies supporting this petition added capacity in 2003. The capacity, as you heard this morning, includes a new plant in Mexico. You also heard from the M&G representative that this plant is the single -- the

largest single stream PET plant ever built.

This capacity increase amounts to three times the volume of subject imports in 2003.

Moreover, M&G's capacity alone is twice the volume of subject imports in 2003. As you would expect and as you will hear from Bruce Malashevich, this introduction of massive new capacity, not subject imports, was the dominant factor behind the temporary price decline in 2003 on which petitioners entire injury case rests.

Second, this unprecedented expansion in North American capacity came in a year when domestic demand did not materialize -- when the growth in domestic demand did not materialize due to highly unusual weather conditions.

A major use for PET resin, as you heard this morning, is for carbonated soft drink and water bottles. And as you might expect, less soft drinks and water are consumed during periods of cool, wet weather that limits outdoor activities and events.

Thus, the extraordinary weather cycle in 2003 with rain and below average temperatures virtually every weekend during this spring and summer curbed demand.

While North American capacity expanded by

nearly 20 percent in 2003, demand increased only by five percent instead of the eight to 10 percent that had been forecast.

Third, at the same time that the U.S. producers' capacity was increasing faster than demand U.S. producers faced increasing raw material costs. Indeed, as you heard this morning, petitioners' view of volatile raw material costs is a condition of competition.

The confluence of these three factors explain entirely the temporary price situation in 2003. While petitioners attempted this morning to attribute it to subject imports instead, the implausibility of that assertion is best demonstrated by their own statements.

Outside the context of this litigation petitioners have cited on many occasions the same three factors I just mentioned when explaining the temporary deterioration in their situation in 2003. Let's return to the Wellman's statement I cited in the opening in which the CEO only two months -- CEO of Wellman only two months ago attributed declining returns in 2003 to increasing North American capacity that outpaced demand. There was no mention of subject imports.

Petitioner DAK America's corporate parent, Alfa, made the same observation in its annual report released last month; namely, that, and I quote, "Some petro chemical businesses such as PET were unable to pass these increases fully onto their customers because of new additional capacity that could not be absorbed by the growth in demand."

Once again, no mention of import competition.

The same theme is echoed by Morgan Stanley in actually interestingly an exhibit provided by petitioners themselves, highlighting, and I quote, "Higher raw material costs, competitive pricing, new supply from M&G and DAK, and weak demand."

There is no conceivable basis for injury to the U.S. industry arising from the modest volume of subject imports. The petitioners cannot credibly make a case of injury for 2001 and 2002.

The questionnaire data show favorable performance indicators and very healthy rates of return in those years that are not typical for an industry as to which the Commission has found injury. The questionnaire data further show that the industry's performance, even in 2003, continues to be improving for virtually all the performance indicators

the Commission examined with the exception of profitability.

And as we have shown, and will be reinforced through other testimony today, and petitioners own words, it is not possible to attribute the profitability decline in the second half of 2003 to subject imports. Even at its peak subject imports' share of the U.S. market remains in single digits. By contrast, the U.S. industry maintains a commanding share of the market at over 80 percent, and taking into account the additional share represented by Mexican and Canadian imports, that the domestic producers control, U.S. industry's share approximates 90 percent of the U.S. market.

As is evidenced from their 10(k)s, petitioners themselves do not even consider the subject producers to be significant competitors. Rather both Wellman and Eastman in their 10(k)s list only their domestic competitors, their domestic competitors as significant competition. Subject imports were not even worthy of a mention.

This industry experienced a temporary phenomenon unconnected to imports that occurred in a six-month window in 2003. This could not possibly form the basis for an affirmative injury determination

and thus we were not surprised today to see the petitioners' case focus very fundamentally on the threat of injury, because we think there could be no possible basis for an affirmative injury determination based on the record here.

But we also think there is no basis for an affirmative threat finding. This U.S. industry is not vulnerable to subject imports. Once again, the producers own words belie their allegations of threat.

Let me turn again to Wellman and quote from their most recently 10(k), and I quote, "Wellman expects that PET resin demand will increase faster than supply over the next couple of years, leading to an improved capacity utilization in the North American PET resin market and improved profitability."

In its 10(k), it further notes that PET resin margins are expected to "improve in 2004 over the last half of 2003 since increased capacity utilization is expected to result in 2004. NAFTA PET resin demand is expected to grown eight to 10 percent as a result of growth in traditional markets and new applications."

All industry observers, analysts and petitioners alike, peg growth in PET demand in the U.S. in 2004 to be between seven and 10 percent and to

continue at that pace. Moreover, petitioners global orientation and dominance in the NAFTA market insulates them from future injury.

As offshore market opportunities expand, the U.S. industry will reap the benefit, building on the industry's already strong export performance.

Moreover, contrary to the suggestions this morning, and as you will hear further from Mr. Mullock, subject exports are expected to recede. As Asian producers are now facing and expect to face for the foreseeable future, relatively high raw material costs, this was a dynamic actually that the petitioners confirmed this morning, this already has begun to and will continue to constrain imports into the United States, and again Mr. Mullock will talk further about this phenomena.

Petitioner Wellman concurs, stating only several weeks ago that, and again I quote, "It did not expect a significant increase in PET resin into NAFTA in 2004." Also note how the Wellman representative spoke about NAFTA as the relevant way to look at market conditions.

Third, the industry is experiencing explosive growth in demand worldwide. Virtually all sources project global growth in demand, not just in

the home markets, but global growth in PET demand to be approximately 10 percent annually over the next several years as we will document in our post-hearing brief.

There are new export opportunities in emerging markets which are at an early stage of growth and are more approximate to the subject producers. It is in this context that any new capacity increases must be examined. Here again Mr. McConkey will focus on the individual country situation in his testimony, but I just have to say that the numbers that petitioners put forward today bear no relation to reality as to future growth in capacity in the subject countries.

Finally, there is no merit to petitioners' allegation that the EU proceedings commenced in 1999 and where measures were imposed in November 2000 are leading these countries to target the U.S. market and project a threat.

Today, nearly four years after the EU provisional duties took effect, subject imports, even at their highest point, represent only a modest share of the U.S. market. This is not an indication of a threat.

In conclusion, neither threat nor injury can

be sustained on this record. The Commission will have the record it needs to render a negative determination, unusual in this case, due to the wealth of public statements and the highly developed arguments and data that has emerged as a result of the pending GSP proceedings.

Thank you very much, and now I will turn to Mr. Malashevich.

MR. MALASHEVICH: Thank you, Ms. Esserman, Mr. Chairman, and colleagues. My name is Bruce Malashevich. I hope you all have before you the package of my exhibits. There are four of them that I'll be referring to as I go through the testimony.

There are a number of conditions of competition that are pertinent to the Commission's analysis of injury and causation in this case, and these will be fully developed in the Respondents' post-conference brief.

My testimony today will focus only on those conditions that inform the Commission with respect to pricing and profitability. As the facts now of record are very, very different from those portrayed in the petition, even a cursory review of the petition makes it clear that this is what practitioners often refer to as a "price case."

According to the petition's confidential calculations and in Petitioners' exhibits passed out today, even the peak market share of subject imports is small for a Title VII proceeding, and their volume, again referring to an exhibit they passed out today on quarterly imports by country, their volume was trending downward in the second half of last year.

On more than one recent occasion, a representative of Petitioners has stated publicly that imports of PET resin into NAFTA countries are expected to decline in 2004, and the testimony you will hear from a major producer indicates they have, indeed.

So the only issues for serious debate concern the behavior of domestic selling prices and profitability and the impact of subject imports on those numbers. Even on that score, the domestic producers' questionnaires received to date, which we have calculated account for more than 90 percent of domestic shipments, as estimated in the petition, seriously subvert the data on profitability and pricing, as reported in, if I remember correctly, Exhibit 50 of the petition.

For example, the trend in the domestic industry's reported profitability is dramatically different in the questionnaires from that portrayed in

the petition. We also found the petition Exhibit 50 to contain computational errors and internal consistencies that we could not sort out.

The official questionnaire data, however, show very healthy operating profitability in 2001 and 2002. The questionnaire pricing data show variations in the actual purchase costs of PET's key raw materials, which are much more moderate than portrayed in the petition. Operating income declined in 2003 in relation to sales, but that is partly because total sales increased. The industry remained profitable.

The only fact to which Petitioners arguably can point as a sign of any injury at all concerns an apparent decline in the percentage of operating income in relation to sales in 2003, and that decline was confined to developments in the second half of that calendar year. How do we know this? We know this because the questionnaires show the actual prices reported by U.S. producers for ITC Products 1 through 4 rose much faster than costs those producers actually paid for the key raw materials, PTA and MEG. Please turn to Exhibit 1.

The fact that prices rose faster than costs is reflected in what the industry calls the "materials margin." It's simply the difference between selling

price and the cost of the two principal materials. In Exhibit 1, we weight averaged the cost data reported in the producer questionnaires in the proportions in which they are used in the manufacturing process so that we have a single line. See for yourself. The line went straight up during the first half of 2003 and declined in the second half for reasons I will shortly explain.

As Ms. Esserman discussed a moment ago, it was in that period of the second half that a convergence of several factors, none of which had anything whatsoever to do with import competition, adversely affected the industry's profitability performance.

One important condition of competition in this industry is, as Ms. Esserman noted, the competition and pricing in the United States take place on a regional, not a national, basis, in what the domestic industry constantly refers to in public statements, as they did today, as the "NAFTA region." The implications of this fact for the Commission's inquiry are clear. The price of PET resin in the U.S. market is established on the basis of supply and demand in the NAFTA region.

Within the U.S. market, domestic producers

reportedly supplied the great majority of U.S. consumption in 2003. Even this high figure, however, understates the market power wielded by the domestic industry because it does not include imports from affiliated producers in Canada and Mexico, and Ms. Esserman described this.

The net result is when you pool the market power derived from production in the United States and affiliated production elsewhere in NAFTA, the domestic industry has, by public estimates, up to or in excess of 90 percent of the entire U.S. market.

The Commission also should be aware that PET pricing is seasonal. Mr. Workman, I believe you asked a question along those lines earlier this morning, and it was basically ducked by the domestic industry. But basically, it is well known that pricing peaks in the second calendar quarter of the year as the consumers stock up for the summer months and naturally declines steadily downward toward year end. The questionnaire data bear this out. Within individual years, however, the normal pattern could be dampened or exaggerated by weather conditions during the summer season, but the seasonal pattern is constant: Prices always decline in the second half of the calendar year.

Another condition of competition is that

additions to production capacity tend to occur in large increments as the scale of the plants has constantly grown over the years, periodically falling behind and periodically getting ahead of the more steady rate of increase in demand year on year. Consequently, PET resin pricing can be quite volatile, rising when demand exceeds capacity and falling when new capacity expands supply at a faster rate than demand, even at times when demand is steadily rising in absolutely terms.

The point is that the Commission should expect to see downward pressure on margins when additions to capacity extend beyond the rate of increase in aggregate demand.

Several recent capacity expansions deserve emphasis in this regard because they, not the incremental growth in subject imports, have upset the supply-demand balance in the North American market, thereby affecting domestic PET resin prices and profitability. The petition itself mentions some of these, although quantities are not offered. Ms. Esserman mentioned today the M&G plant in Mexico, the new DAK facility in the United States, and the outcome of a joint venture deal between Voridian and Wellman that expanded capacity by hundreds of millions of

pounds. All of those events occurred more or less simultaneously. When? 2003.

The confluence of these events, especially as their initial impact was very much concentrated in 2003, rather profoundly upset the preexisting supply-demand balance in the United States and North America, as Ms. Esserman discussed.

Please refer to Exhibit 2. This exhibit is most interesting. It demonstrates that the growth in total capacity far exceeded the growth in aggregate U.S. demand in 2003, naturally exerting downward pressure on U.S. profit margins.

Now turn to Exhibit 3. Exhibit 3 shows that incremental, that is, from one quarter to the next, changes in local capacity during the POI, and particularly in 2003, overwhelmed contemporaneous changes in the volume of subject imports, overwhelmed it. In this greater context, the volume of subject imports simply didn't matter.

Another important condition of competition arises from the behavior of raw materials prices. As you probably know, 75 to 80 percent of PET resins' cost to the manufacturer reflects the purchase price of the two inputs, PTA and MET. Like PET resin, these materials are traded and priced on world markets, as

you heard earlier. However, their principal end use markets are very different.

As we heard today, the great majority of PET resin is used to produce packaging for consumer goods, the stuff we buy, mostly in the form of beverage bottles. The demand for PET resin thus is derived from consumer tastes and levels of consumption of beverages and can be strongly influenced by the price of competing packaging materials, such as glass, aluminum, and paper. Only a fraction of world production of PTA and MEG, by contrast, is consumed by producers of PET resin. The balance is used in entirely different applications, such as high-octane gasoline, which are driven by very different market factors.

Consequently, while the prices of PET resin and their two principal inputs very broadly move together over the long term, it is a natural condition of the market that they don't move synchronously during shorter-term periods. The petition itself states, and I quote: "The volatile nature of raw material cost-price changes is a significant competitive condition in the PET resin industry," (page 67), and that "the risk of raw material fluctuations and spikes is inherent in the PET resin

business." (Page 85.)

In sum, there is, in fact, every reason to expect that producers' profit margins naturally will fluctuate, almost regardless of the direction and rate of change in actual demand for bottles and containers.

There was, indeed, some disharmony in the behavior of raw material versus PET prices among domestic producers in 2003, owing to the extraordinary increase in the price of petrochemical feedstocks, in particular, crude oil. But the producer questionnaires received to date indicate that this was largely mitigated through price increases and cost controls. Refer again to my exhibit on the materials margin. There is little evidence of the dramatic cost-price squeeze alleged in the petition, and that evidence is confined, as I mentioned earlier, to the second calendar half of 2003.

As I will explain, with, I emphasize, help from the domestic industry, these conditions interacted with each other to shape the domestic industry's condition over the POI. Subject imports had no material impact.

The volume of subject imports in this case fails to pass the tests of significance as normally applied by the Commission. The U.S. market share of

the imports is only in the single digits, as has been publicly estimated. The share of demand for the NAFTA region as a whole, of course, is even smaller.

Although their volume increased, it expanded from an extraordinarily small base. Especially when considered in the North American context or global context, their market power was very small, certainly in contrast to U.S. producers' enormous share. With subject imports collectively serving less than 10 percent of the U.S. market, by most estimates, and domestic producers controlling on the order of 90 percent, there is no contest here. Subject imports have to be price followers, not leaders.

What is unusual in this case is that Petitioners agree. In a GSP proceeding before the Commission only a few weeks ago, Chairman Okun asked a question regarding the market differentiation between cold-fill PET and hot-fill PET. In responding to her question, Mr. Taylor of Wellman stated the following, in pertinent part: "Basically, if you really look at the hot-fill market in the NAFTA region, you really are talking about, at a max, what we call 'true hot fill,' which is in your juices and products that have to be filled at higher temperatures, probably less than 10 percent of the total market. So it really is

a small portion of the overall pie." (Transcript at pages 96 to 97.)

The existence of sworn and very recent testimony by domestic producers before this Commission thus confirms that a U.S. market share on the order of 10 percent is not significant in absolute terms.

The market penetration of subject imports is also restricted by significant, nonprice factors. As you will hear from industry witnesses, there is a distinct preference to purchase from local suppliers because of their proximity, just-in-time delivery capability, and capability to provide a broad product line, including specialty products not available from subject importers.

Once again, the most telling statistics is in the imports' small market share. Although some subject producers have been selling PET in the U.S. market for as long as 10 years, their market share, even at its peak, remained tiny. As you will hear from a major customer, their presence is dramatically reduced this year. This fact attests to the difficulty of achieving significant penetration of the U.S. market other than through channels already controlled by domestic producers or their affiliates.

In any event, there is substantial evidence

that the volume and market share of subject imports began to erode in the second half of 2003 and dropped further in 2004. The petition itself, in Exhibit 12, reproduced among the exhibits this morning, shows that subject imports peaked in the first calendar half of 2003, precisely during the period when domestic producers pushed up resin prices faster than could be justified by changing the raw materials costs. That same exhibit indicates that imports from three of the four subject countries trended downward in the second half of last year. However, as I discussed earlier, the only period in which the alleged cost-price squeeze arguably occurred is confined to the second half.

The correlation between import growth and declines in domestic industry's condition does not exist in this case. Being significant during the Commission's POI and even less significant currently, subject imports could not have caused significant volume effects. This explains the silence on this subject in domestic producers' official 10-Ks and 10-Qs discussed earlier by Ms. Esserman.

Subject imports also did not cause significant price effects. As I discussed earlier, the questionnaire evidence does not support

Petitioners' allegations of price suppression attributable to subject imports. Rather, other market developments naturally arising from the industry's conditions of competition fully explain any downward price pressure that the Commission might perceive from the questionnaire evidence.

The fact is that an unusual confluence of other factors explains why domestic producers' cost-price margins declined in the second half of 2003, although I would argue that the decline was not material. First and foremost is the fact that PET resin prices naturally decline in the second half of a calendar year, owing to their seasonality, irrespective of what happens to the prices producers pay for their raw materials.

In 2003, the rate of this decline would have been greater because the summer was unusually cool and damp, as Ms. Esserman described. Second, there was a huge increase in production capacity locally in the United States and in the NAFTA region which had the U.S. market as its natural focal point.

Please turn to Exhibit 4. It illustrates the magnitude of this increase and, more importantly, its timing. Note the concentration in 2003.

Within the course of the last eight months,

beginning in April, 12 percent more PET resin capacity came onstream, according to a well-respected publisher of industry data. This occurred in an environment where the annual increase in total U.S. demand was only 5 percent. The effect, of course, was downward pressure on resin producers' margins, again, a fact cited in the published statements of U.S. producers themselves.

Therefore, in 2003, a lower-than-expected rate of growth and demand almost precisely coincided in time with the months when huge, new local capacity was coming onstream and when prices, in any event, were experiencing their normal seasonal declines.

This summary of events echoes what representatives of the domestic industry have said in recent published statements, as quoted by Ms. Esserman. The Commission should not permit Petitioners to claim adverse price effects owing to the influence of phenomena that naturally arise from the industry's condition of competition, not subject imports.

I might add that the price pressure from substitute materials on PET resin's principal packaging applications also was relentless during this period, especially after U.S. producers aggressively

increased prices in the first half of 2003. The ready availability of substitutes means that U.S. demand for PET resin is highly price elastic.

The domestic industry also has been a magnet for investment for the last several years. We will document those events fully in the post-conference brief.

That concludes my remarks. Thank you. I'll be developing all of these points in greater detail in the brief. I'll be pleased to answer any questions.

MR. ZIEHM: Good afternoon. I am Stephen Ziehm, vice president of International Business-Government Counselors. I am testifying before you today on behalf of the PET Users' Coalition, an ad hoc group of U.S.-based trade associations and companies that oppose the imposition of antidumping and countervailing duties on bottle-grade PET resin from India, Indonesia, Thailand, and Taiwan.

Members of this coalition include such companies as Cadbury Schweppes, America's Beverages, Campbell Soup Company, Consolidated Container Company, Constar International, Inc.; Cott Beverages USA, Graham Packaging, Lion Chemical Industries, Nestle USA, Ocean Spray Cranberries, Owens Illinois, Pepsico, Procter & Gamble Company, and Welch's, as well as

major industry associations, such as the National Soft Drink Association, the American Frozen Food Institute, the Cosmetic Toiletry and Fragrance Association, the Distilled Spirits Council of the United States, the Grocery Manufacturers of America, the International Bottled Water Association, the National Association for Specialty Food Trade, and the National Food Processors Association.

These companies and associations are very concerned about the implications of placing antidumping and countervailing duty orders on their imported input PET resin materials. Bottle-grade PET resin is used to produce containers and packaging for a wide and expanding array of consumer goods, such as carbonated soft drinks, water, juices, peanut butter, salad dressing, frozen foods, soups, snack foods, alcoholic beverages, toiletries, and cosmetics, to name a few.

Demand for PET resin is experiencing explosive growth as the uses for this product continue to develop. Over the period of investigation, U.S. demand for PET resin has increased 8 to 10 percent annually, although that rate unexpectedly slowed to about 5 percent in 2003, owing to an unusual cool and wet summer, which dampened the sale of soft drinks and

other picnic foods packaged in PET.

Looking forward, demand is likely to resume its 8 to 10 percent annual growth. There is plenty of room for import supply in the U.S. market for this product.

PET packaging represents a significant cost for members of the PET Users' Coalition. Consequently, we are extremely concerned about any measures that could have the effect of putting price pressure on this packaging. Members of the coalition are already facing PET resin producers' actions to raise prices in the wake of increasing raw material costs. Adding duties to PET resin imported from Indian, Indonesia, Thailand, and Taiwan will do little to alleviate any burden increasing costs are placing on the domestic industry. Nonetheless, artificial import restraints would limit the supply options available to the members of the coalition and encourage the substitution of other packaging materials for PET resin.

As such, the members of the coalition strongly advocate against government interference in the vibrant and growing market for PET resin. Thank you.

MR. MULLOCK: Good afternoon. I'm Dan

Mullock, vice president of purchasing for Constar International, Inc., located in Philadelphia, Pennsylvania.

Constar is one of the largest suppliers in North America and Europe of PET containers for conventional applications in both soft drinks and water. We convert PET resin into preforms and bottles. We helped pioneer the PET bottle industry, starting with the manufacture of bottles in 1963. We were a major participant in the rapid growth of the two-liter soft drink market in the eighties and the introduction of the single-serve market in the nineties, and we're currently involved in the rapid expansion of the bottled water market. We are also discovering new ways to apply PET technologies to packaging for the future.

Our 2,1000 associates helped us achieve net sales in 2003 of about $740 million. This does make us the second-largest PET bottle company in the world and one of the largest PET resin purchasers.

We purchase most of our resin requirements from producers located in North America, and we buy on a delivered basis, typically. We prefer to use a North American source of supply because producers located here are better able to provide us with

product on a just-in-time basis, can easily replace defective material, and can quickly change specifications when our customers demand it. They also offer a greater breadth of commodity and specialty products than do any of the subject producers.

I'll often deal with domestic producers simply because I know that one producer can fulfill my requirements for a wide array of products, including hot fill, recycled mix, and also can provide hands-on technical support that suppliers in the subject countries just do not provide.

Because of these services provided by the domestic producers, I am sometimes even willing to pay a price premium for domestic products over subject imports. Constar is not the only U.S. company with this view of the available supply choices, as is demonstrated by the fact that U.S. producers supply the vast majority of the U.S. market.

Not only are the U.S. producers my preferred choice of supply for my domestic operations, but I also use U.S. producers' resins in my operations abroad. As a multinational corporation, Comstar has a global procurement strategy. U.S. producers, which are also large, multinational corporations, are able

to meet our global needs. We often use supply from these producers, for example, to fulfill our requirements in Europe. We like to leverage our global business with the U.S. industry because we have a large U.S. presence and want our global business units to receive the same benefits that we receive from U.S. producers.

The domestic producers of PET resin have been an excellent source of supply. We have developed a long and stable relationship with these producers and look forward to growing with them as demand for PET resin and PET packaging continues to grow.

We are concerned by rapid and unpredictable price increases which could be aggravated by arbitrary and noncompetitive constraints on supply. We know that our customers, the majority of which are downstream users of our bottles, represented by Mr. Ziehm here today, are reluctant to accept price increases and price volatility for their bottled products and are able to substitute other packaging materials for PET. When the U.S. industry has forced, through rapid and unexpected price increases in the past, customers have actually shifted their purchases away from PET resin products.

It is well established that PET resin is

replacing aluminum in soft drinks because consumers prefer PET bottles over aluminum cans. However, the major soft drink companies purchase both aluminum and PET products, and they can switch back and forth between these packaging materials when prices shift. As the attached exhibit shows, in 2003, soft drink companies actually engaged in this type of shift, purchasing more aluminum after price increases in PET were announced, and you can see that indicated in the exhibit that's attached.

In such a large market dominated by the NAFTA suppliers, it is hard for me to envision how subject imports are actually injuring the U.S. industry. PET imports have only a small presence in the U.S. market and have actually declined recently. They are inconsequential in explaining the key issues facing the domestic industry today. The major sources for the current concern for the domestic industry, instead, are periodic excess capacity and rising input costs in the North American market.

The first key challenge for the U.S. industry, capacity management, is unrelated to the small amount of resin imports. It is apparent that domestic producers and their sister operations in Canada and Mexico increased their North American

capacity above demand and are now looking for an outlet for their excess supply. The recently completed Mexico MEG plant produces twice the volume of all non-NAFTA imports, and the industry demand for PET typically grows annually by an amount equal to or more than the non-NAFTA imports.

Simply put, the domestic industry just needs to wait for demand to catch up to the capacity that has already been installed. They do not need protection from subject imports in the meantime.

The U.S. industry is facing increasing costs, and this is the second key challenge for their health. Prices for purified terephthalate acid (PTA), the primary input into PET resin, have recently been increasing and are expected to continue rising in the imminent future. PTA is made from parazylene, a raw material that itself is produced from the same materials used in gasoline as an octane enhancer, and, in fact, in March in 2004, these upstream raw materials hit highs not seen since the Gulf War of 1991, as published in Purchasing magazine on April 1, 2004.

Producers of PTA and PET, therefore, have to compete with record gasoline costs for these input materials. Gasoline is clearly the dominant end-use

product, so producers and users of PTA pay a premium to guarantee supply, not in response to PET resin prices but in response to record demand and costs for gasoline and its raw materials. Also, as the producers' coalition alluded to this morning, those PET producers who are not integrated in their own PTA production also have traditionally bought their PTA from only one supply, and they have traditionally paid a premium -- these are my words now, not theirs -- paid a premium for U.S. PTA due to a de facto oligopoly in its production in North America.

The domestic producers of PET resin are currently facing rising input material costs for reasons that have nothing to do with the demand for, or supply of, PET resin.

Another key reason to deny protection is that the U.S. producers are already facing less import competition as raw materials' prices rise more rapidly in Asia than they have in the U.S. Traditionally, U.S. producers had higher prices for the input materials used to make PET resin than those in Asia. Asian suppliers could often buy PTA and MEG at lower open-market prices and compete in the U.S. despite their ocean freight costs. Prices for PTA in the subject countries have recently begun converging with

U.S. PTA costs as the smaller pool of excess Asian raw material supply is gobbled up by other sources of demand, such as the polyester textile industry.

Facing rising costs, subject producers are not able to supply the U.S. market at the price levels currently being driven by the North American producers. They are, thus, participating less in the U.S. market. At this time, for instance, I do not have any subject producers attempting to sell me incremental product. All of my sales calls are from NAFTA producers.

Since the fourth quarter of 2003, well before the petition was filed, import levels have been in decline, and you see that from the Petitioners' own exhibit. While it is common for production and import levels to reduce drastically over the holiday season, the Asian producers normally would reenter the U.S. market after the Chinese New Year, which this year was around January 22nd, and they haven't done so in a significant way. The subject producers are price followers, especially in light of their low volumes, and they leave the U.S. market when prices get to a level at which they cannot compete.

As a final point, it does seem odd to me that the domestic producers would file this

antidumping and countervailing case against such nominal players in the U.S. market. While the domestic industry may have some issues, placing antidumping and countervailing duties on imports from India, Indonesia, Taiwan, and Thailand is not going to remedy their problems.

As a company with operations in different parts of the world, I see a trend whereby the producers of PET resin seem to be using the antidumping laws to segment what is otherwise a global market into separate, protected markets. It already received antidumping-duty protection in Europe, making the sheltered European market the most expensive in the world. They are also currently prosecuting an antidumping case in Brazil. As the coup de grace, they would like to carve out the U.S. market and protect it from competition from the smaller suppliers.

This is not an injured or vulnerable industry. This is a sophisticated industry that is using the antidumping laws for purposes not necessarily intended by U.S. statute or international rule.

The problems faced by the domestic industry are caused not by imports from subject countries. PET

resin is a growth product. The U.S. industry and its sister operations abroad simply misjudged demand in the short term and are also struggling with the same high petrochemical costs seen by U.S. consumers every day at the gas pump.

By all projections, however, demand is expected to continue its explosive growth, and raw material prices are expected to soften. The U.S. producers simply need to wait for demand to continue its trajectory and soon catch up to North American supply. Placing import restrictions on the minor players in the U.S. market will not help U.S. producers. Thank you.

MR. McCONKEY: Good afternoon. My name is Matthew McConkey of the Coudert Brothers law firm, and to my right is my colleague, Kay Georgi, also of Coudert Brothers.

We appear before you today on behalf of Indo-PET Thailand, Ltd., a Thai producer of PET resin; and P.T. Indorama, Ltd., an Indonesian producer of PET resin. We are here today to amplify this joint defense by offering country-specific information relating to threat for Thailand, Indonesia, and India.

I would like to begin by echoing the sentiments of the witnesses who have appeared before

me. We agree that there is no reasonable indication of material injury or threat of such injury by reason of PET resin imports. The fact of the matter is that the Petitioners filed this petition at the end of the first quarter of 2004 to limit the Commission's examination of first-quarter 2004 data, data that lays bare Petitioners' claims of rising imports and price suppression.

The witnesses before me have discussed the issues of import penetration, capacity, and conditions of competition. This afternoon, I would like to reinforce these arguments with specific reference to data from India, Indonesia, and Thailand.

First and foremost, imports from India, Indonesia, and Thailand constitute a very small percentage of the U.S. market. With respect to market share, we believe that import shares speak for themselves. Imports from these subject countries constitute a small percentage of the U.S. market. Moreover, as I will address later on, there is no reason to expect that their share of the U.S. market will increase. By contrast, U.S. producers held over 80 percent of the U.S. market in 2003, a share the Petitioners themselves readily acknowledge.

Second, Petitioners allege that imports from

these subject countries threaten to increase in the future. This is simply not true. These countries are experiencing historic growth in demand for PET resin. A number of factors explains this explosive growth, including the fact that the markets for soft drinks and bottled water in these countries, countries with a combined population in the billions, are at early stages of development.

With a view to supplying this growth in demand, Asian producers have added some capacity. However, it is nowhere near the claims set forth by Petitioners. For example, the Petitioners have estimated a 30,000 metric ton increase in 2005 for P.T. Indorama. P.T. Indorama, in fact, has no such current plans.

For Thailand, Petitioners estimated Thai Sheng Kong's capacity at more than three times what it actually is. In addition, the only additional estimated capacity in Thailand is expected from Thai PET Resin Company; however, that company has not yet exported to the United States. Indeed, while there are some six PET resin producers in Thailand, the Petitioners themselves recognize that only three exported to the United States during the period of investigation.

In comparison, capacity is expanding rapidly in the NAFTA region. Indeed, M&G's singular plant addition in Mexico outstrips all capacity increases in India, Indonesia, and Thailand combined. In fact, M&G's plant in Mexico has more capacity than all of Indonesia.

It's not credible to argue that subject imports adversely threaten U.S. producers of PET resin. There are significant limitations on the ability of these PET resin producers to increase import volumes into the United States.

First, there is a product-mix difference between PET resin produced in the United States and exported PET resin. There are two basic types of PET resin which we've heard about today: the cold-fill grade for temperatures up to 60 to 70 degrees Fahrenheit and the hot-fill grade. While the U.S. producers manufacture both the cold-fill and the hot-fill grades, the Asian exporters supply the U.S. market almost exclusively with the cold-fill grade. Indeed, neither the Thai producers nor Indian producers that export PET resin to the United States have ever exported the hot-fill grade. Similarly, P.T. Indorama neither produces nor exports hot-fill PET resin to the United States.

Second, as Dan Mullock testified earlier, many U.S. converters are also hesitant to purchase any substantial quantities of imported product because of concerns about shipment lead times, which can be four to six weeks, and the hardships encountered when product defects are discovered. As such, PET resin from Thailand, India, and Indonesia will always remain a secondary or a backup source of supply to the U.S. converters.

Further, Petitioners have concocted a threat theory with respect to China. Put simply, their argument is that the Chinese PET resin market is soon to become unavailable to imports from these countries named in the current petition, thus creating the incentive for these countries to shift sales to the United States. Nice theory, but it can't be supported, as neither the Thai nor Indian companies who export to the United States sell product to China. In addition, P.T. Indorama does not sell to China. Therefore, such speculation cannot support an affirmative threat determination. Threat must be imminent, not based on mere speculation.

In conclusion, there is no reason to believe that the U.S. industry is being injured by reason of imports from Thailand, Indonesia, or India. Further,

imports from Thailand, Indonesia, and India do not have the ability to pose an imminent or material threat to the domestic industry in the future.

Thank you for your attention today. Ms. Georgi and I are available for any questions that you may have.

MR. CARPENTER: Does that conclude your testimony?

MS. ESSERMAN: That concludes our testimony.

MR. CARPENTER: Okay. Thank you very much for your testimony and for appearing here today. We will begin the questioning. We will incorporate your materials that you've provided to us into the record and make those exhibits to the transcript. We will begin the questions with Mr. McClure.

MR. McCLURE: Jim McClure, Office of Investigations. First, a couple of data requests that you can get in later.

I know counsel is familiar with the U.S. producers' questionnaire, Question IV-B-17, asking for quantities purchased and amounts paid for MEG and PTA. If you could replicate that for your clients in India, Indonesia, Thailand, as the case may be, I would appreciate that.

The other thing: Since the EU dumping and

subsidy findings keeps popping up, if you could go back to your clients, and on that line that says "exports to other countries other than the U.S.," if you could break that down so we could see their exports to the EU for the period we're examining, I would appreciate that.

MS. ESSERMAN: We would be happy to do so.

MR. McCLURE: Mr. McConkey, you said -- am I right? -- that the Thai industry has six PET producers, and I note, it strikes me that back in the GSP hearing, your statement said there were three.

MR. McCONKEY: There are three that export to the United States, but there are six, I believe, that are listed in the GSP documents of the Thai PET resin.

MR. McCLURE: Okay, because it says the Thai PET resin industry is composed of three producers: Indo-PET Thailand, Thai Sheng Kong, and Bangkok Polyester.

MR. McCONKEY: Are the three that export to the United States.

MR. McCLURE: Now, are those the three you believe --

MR. McCONKEY: That export. Correct.

MR. McCLURE: Okay. With regard to all of

you and any influence you may have on firms that are not specifically represented by you but are in the countries, to the extent that you can get your clients to encourage their industry colleagues in the subject countries to submit questionnaires. We fax them and what not, but, nevertheless, that's often a precarious art. There was no shortage of people sending e-mails with foreign producer questionnaires, and I also apologize to everybody in the room for the problem we seem to have with the Word documents that we send out. They seem to corrupt everybody's files, but we are the last ones in the world using WordPerfect.

Nevertheless, I would appreciate it, to the extent that everybody here at the table has any ability to impact firms that aren't represented getting a response to us, we are as good as the data we get, so please work on that.

MS. ESSERMAN: We will do that.

MR. McCLURE: One thing, Mr. Malashevich. You were talking about the 10 percent not being a major portion of the market, and did I happen to look down at the wrong time, or were you talking in the context that 10 percent of what was sold was the hot, --

MR. MALASHEVICH: Yes.

MR. McCLURE: -- and you weren't talking in terms of share from your countries there?

MR. MALASHEVICH: No.

MR. McCLURE: You were using that example to --

MR. MALASHEVICH: I was using that example of what the domestic industry regards as a threshold of significance. It is by coincidence that he answered the question of 10 percent in the context of the hot fill, and the market share is under 10 percent in this case. It is in that respect that I testified.

MR. McCLURE: But aren't you talking apples and oranges there?

MR. MALASHEVICH: No. Ten percent is 10 percent, whether it's on one side of the market or the other.

MR. McCLURE: I'll leave that to the economist to argue. For right now, I don't have anything else. I may get back to you here.

MR. CARPENTER: Mr. Haldenstein?

MR. HALDENSTEIN: Yes. I think I heard from the Petitioners that the importers were offering the hot-fill product on their Web sites, and it seemed that they were suggesting that the importers are in the market. Could you comment on that?

MR. MULLOCK: May I? As the Petitioners indicated, by changing your menus and other changes to your production process, you can make hot-fill and cold-fill resins on the same equipment, but the users of those resins find it much more technically demanding to deliver a bottle that performs to the much more rigorous demands of the beverage maker when it's a hot-fill product. So that usually involves a lot more technical engagement with the resin supplier to make sure that it performs correctly, and it has to be a highly responsive engagement where you find you have a production problem, and all of a sudden the bottle that should be, for example, once it's hot filled, keeping shape does not.

So it's a natural limit on the ability of nondomestic producers to participate in that marketplace because of the higher technical support that's required to successfully execute it. So I don't dispute that it is possible for someone to make and participate in that market. The reason they have not, I believe, is in part because of that lack of field-technical-support capability.

MR. HALDENSTEIN: Am I to understand that the imported product is, therefore, a different product?

MR. MULLOCK: Yes. Again, another point that was made: You can take this resin and use it for that purpose. That's true, and you can take an elephant and teach it to dance, but it's never going to be a ballerina, and we're a very highly productive, highly efficient, low-margin business, and you have to be able to produce at very high efficiency levels. So you fine tune the resin to your machine and bottle-specification environment to do that, so you don't switch resins day in and day out because there is a cost and impact on productivity of switching that you and your customer will find unacceptable.

MR. HALDENSTEIN: Thank you. That's the only question that I have at this time.

MR. CARPENTER: Mr. Workman?

MR. WORKMAN: I have a question for Mr. Malashevich. Now, I'm trying to deal with this issue -- you made a point of, you know, large amounts of excess capacity coming onto the market. I haven't seen that too often as a factor directly affecting prices, even though, I suppose, in principle, it could. But you're saying that this large amount of capacity came onto the market, and as a result, they had to operate this equipment in order to be efficient, and it forced down the price. Is that

right?

MR. MALASHEVICH: In essence, that's right. I would just remind you, though, it's not only me saying it; it's also the producers themselves in describing the effect on earnings in 2003.

MR. WORKMAN: I had one other thing. On this issue of substitutes and the elasticity of demand, maybe you could be the one to answer this, Mr. Mullock, you're saying that just a very small increase in the price of PET resin would force, you know, some bottler or whatever to switch to some other product, switch to aluminum, switch to something else.

MR. MULLOCK: In fact, sir, yes. The U.S. beverage CSD business, which is the overwhelming percent of our business, -- "CSD" is carbonated soft drinks, the soda business -- is dominated by a few large players in the United States: Coke, Pepsi, and a few other companies, and they maintain dual distribution of both PET and aluminum can packaging, and they fill that packaging side by side in their bottling operations throughout the United States, and they are quite capable of switching back between packaging forms, and they have a highly detailed, very precise understanding of the relative cost of those and its impact on the system. So, yes, they are quite

capable of doing that.

MR. WORKMAN: Would this be typical of other kinds of products also, in addition to soft drinks, such as catsup or something like that, any kind of container?

MR. MULLOCK: It would be less typical, sir, for those other products. The issue with those is more of one of they become less attractive for conversion. If I'm packing pasta in a glass jar, and I've been thinking about conversion, and I've got five different sizes or affiliated products, and one of them is already in PET, and I'm going to convert the others, I don't do it if the price/convenience tradeoff becomes unattractive because of that change, so I put that off.

MR. WORKMAN: That's what I was thinking. It wouldn't be likely for someone to go backwards. In the past, I know that there were a lot of things that were in glass containers --

MR. MULLOCK: In food, it would be less likely for someone to go back to glass once they experience the joy of PET.

MR. WORKMAN: (Laughter.) So what you're saying here is the effects of this will be predominant in beverages and less so in others.

MR. MULLOCK: In the short term, it would be beverage. Long term, though, it would be new growth, which is, you know, what we need in order to survive as a business and which we have depended on year in and year out.

MR. WORKMAN: Thank you. I don't have any other questions.

MR. CARPENTER: Mr. Boyland?

MR. BOYLAND: Just a general request. When I was initially speaking to the U.S. producers, I asked for any comments, suggestions, et cetera, regarding our ability to calculate return on investment, which we're intending to do by dividing operating income by the information in Table 3-7, current and noncurrent. Any information or insight you can give us, we would appreciate.

MR. MALASHEVICH: I would make one comment, briefly, now and perhaps add to that post-conference, and that is, these are all multiproduct companies, and just reading through their 10-Ks, you will find that the relevant business unit in a number of cases, not all of them, but in a number of cases, also produce other PET products not subject to investigation, in particular, fiber. For example, the Pearl River plant you heard about in testimony earlier today was

constructed with three lines, two being dedicated to the resin and one being dedicated to fiber, and they never even started it.

The point is, I think you're going to get meaningless results by trying to take the operating returns attributable to PET and trying, in some fashion, to attribute it to the relevant assets. Maybe you can, but I'm not optimistic.

MR. BOYLAND: Thank you. I have no further questions.

MR. CARPENTER: Mr. Cantrell?

MR. CANTRELL: Ray Cantrell, industry analyst. I had a question about the plants over in the subject countries. Are they modern, efficient plants? Would you classify them as having cutting-edge technology in line with what you would find in the U.S.?

MS. ESSERMAN: Let me just say, for India, that there is a mix in the plants. There are some that are not at all sophisticated, with outmoded technology, aged plants, and then there is a plant that is modern and efficient. So you see a real mix in technology and age and sophistication for India.

MR. McCONKEY: And I would simply just echo that. I believe for Indonesia and Thailand as well,

there is a large number of plants in those countries, and you'll see the same wide range.

MR. MULLOCK: I would also add that the scale, the size, of these plants tends to be in the range of 120,000 metric tons per year, which, when you talked about some of the more recent world-scale plants that have been built, such as, for example, the M&G plant in Mexico which is somewhere between three and four times that size, that the Asian facilities tend to be more uniformly small.

MR. CANTRELL: What about environmental standards there versus the United States and the NAFTA region?

MS. ESSERMAN: I must say, I don't have that information regarding India. I would be happy to look into the matter and provide you further information.

MR. MULLOCK: I can speak to the plants I visited. We care a lot about the environment, and we hold our suppliers to common standards of concern. For example, the Bangkok polyester plant I visited in Thailand has its own water-reclamation system and appeared to be clean and well run and not unduly impactful on the environment. Operation was also natural gas fired, and so it was very clean and would be a good neighbor here right in the States, I think.

MR. CANTRELL: Would you classify the quality of the product as equal to U.S. product?

MR. MULLOCK: Yes.

MR. CANTRELL: Do you have any comments on the EU sanctions? Why were those reimposed back in -- I believe it was 2000?

MR. MULLOCK: I really can't. That precedes my association with the industry, and I'm not nearly as familiar with the mechanics in Europe. I do know that the result of those sanctions is that Europe is a very high-priced market for PET.

MR. SIERCK: Excuse me. May I add something on the EU situation, that perhaps less so than the United States, the EU situation is not perpetually static? My client, for example, is now engaged in what would be called in the United States a "new shipper review," and if they can come in and get lower margins, similar to the United States, they can be a player there, and that's what they are attempting to do. Doubtless, there are other producers from the subject countries who have the same opportunity.

MS. ESSERMAN: Can I just say, just to add to what Mr. Sierck is saying, that a number of the companies continue to ship to Europe, not at the same volumes, but the market is not closed? I think it's

very important, though, to put this in context. That order was imposed four years ago, and this is being presented as a basis for a threat determination.

I think we can see from the record of this past four years, it isn't a threat because five years after the case was brought, four years after measures were imposed, we now, the maximum, we have at its peak, we have imports at single digits here. I think the issue is really a red herring. It really does not factor into threat.

MR. CANTRELL: Thank you. One other thing. This West Coast issue has come up a few times. I've taken a look at the statistics, at our import statistics, off of our data base, and essentially 100 percent of the Indonesian product comes into the West Coast. Essentially, 100 percent of the Taiwanese product comes into the West Coast. About 60 percent of Thailand's shipments come into the West Coast. Essentially, none of India's come into the West Coast; they are all primarily East Coast.

I assume that some of this is geographics, but the Petitioners argued that they were competitive on the West Coast and that there were a lot of costs associated with the subject country imports. I wonder if you could comment on that.

MR. MULLOCK: The fact is that ocean freight is a significant expense for the importers, and also the conversion into inland modes of transportation can be expensive. So the areas where the importers can be most easily competitive with the U.S. producers are those areas where the U.S. producers have the highest cost of inland freight and where the importers have the lowest cost, and that's the coastal regions.

A rail car carrying 200,000 pounds of resin and costing $4,000 to move to the West Coast has a cost of two cents a pound for resin. That's approximately half the cost of the ocean freight delivered, landed, in the same Port of Los Angeles. So it's just a fact that it's easiest to compete in the areas where your ocean freight is minimized, and you have little or no inland transport costs because you can receive it directly into the market where you're using it.

For example, we use imported resin in Orlando and near Baltimore. It's not an accident that they happen to be located near major U.S. ports of entry. It's because the economics require it in order for it to be competitive.

MR. CANTRELL: Is it true that the subject country imports come in in poly bags and have to be

offloaded?

MR. MULLOCK: It is true that they typically come in in 20-foot containers in what are called "super sacks," which is holding about one metric ton of resin in each bag and that the reason for that is, in addition to the sanitation issues, is because one of the most expensive aspects of ocean freight shipping is demurrage on the container once it's landed. And so in order to have some local inventory and not hold onto the containers and run the demurrage costs, the resin has to be removed and temporarily stored, and so it's a convenient way to remove it and store it until such time as it's ready for users like us to take it.

MR. CANTRELL: Okay. Thank you very much.

MR. MULLOCK: You're welcome.

MR. McCLURE: One question with regard to the EU finding. When do those expire?

MS. ESSERMAN: They were imposed in December of 2000, so they would be slated for expiration in December 2005.

MR. McCLURE: And that's applicable to all three countries?

MS. ESSERMAN: I believe, yes. Yes, I believe so.

MR. McCLURE: I mean, there isn't any difference in the time scheme there.

MS. ESSERMAN: Yes.

MR. McCLURE: Okay. Thank you.

MR. CARPENTER: I just have one question. I'm somewhat intrigued by the forecast for the increase in demand of about 7 to 10 percent per year, which is very high. We're not used to seeing that kind of increased demand in products that are normally before the Commission. And I know, Ms. Esserman, you indicated that that was at least partly due to the shift in demand from glass and aluminum to plastic.

Mr. Mullock, I believe you also indicated that there may be some new applications, and I was wondering if -- maybe Mr. Mullock might be the best person to answer this -- if you could break this down a little bit further, first of all, with respect to the increased use of plastic over the alternatives. What's really driving that? How much of that is being driven by cost advantages?

I was wondering also about recycling. Aluminum has been recycled for quite some time, but plastic is also now recycled. Is there an increase in the use of recycled plastic which makes that more attractive and less expensive? What kind of factors

are driving this rapid increase in demand?

MR. MULLOCK: First, directly with respect to the growth, the PET has enabled some new markets to be created that didn't exist, for example, the water business. Ten years ago, who would have thought you would pay a dollar to buy a bottle of water? Right? Nowadays, it's like who doesn't have one? So the growth in that continues to be explosive, and it's a brand-new market. It's a market that didn't exist before. So the growth in that is very explosive, and that's new, and that doesn't require conversion.

But there are still a lot of products out there, surprisingly, in glass, a lot of what we call "isotonics" or sports drinks, the Gatorades of the world. You saw an example of one here in plastic, but a lot of those products, including Gatorade, still have a lot of glass out there, and they are ripe for conversion. Plus they are heavy bottles, and so they consume a lot of resin in each individual one. So the growth in industry as measured in pounds with that particular category is faster than the growth in units as those units convert.

And then, finally, the holy grail of PET, beer, which is almost exclusively in glass in the United States but is rapidly converting in Europe to

plastic, all areas that offer excellent potential for growth, and this industry is used to 5 to 10 percent growth a year. It's exactly what they have seen almost every year for the last 10 or 15.

The second part of your question concerned the use of recycled resins. Twenty percent of the bottles that are used in the United States are recaptured, and the demands on those bottles are to export as baled, in bales, for a variety of uses. And in the United States, as Mr. Dewsbury of Wellman probably could tell you better, the uses are low-grade industrial fibers and padding, reconstituted as fiber into textiles for the textile industry, and finally used in industrial applications like strapping, and the most demanding application is back into PET bottles.

The FDA is very concerned, rightly so, about the quality of the products from which packaging is made, so it is a rigorous cleaning and preparation process necessary to make recycled resin back into PET capable of being used in bottles, that plus the availability of the supply and the other demands on that supply means that it will probably be in the single digits in terms of the percent of it that's used in bottles.

Food applications: Baby food jars, all of which are in glass now, an excellent conversion opportunity. Catsup was mentioned, which are in polypropylene, multilayer bottles, an excellent application. Pastas. If you open your refrigerator and imagine all of those little jars in there of sauces and relishes and all those things that may require a higher level of oxygen protection, Constar, in particular, has some special technology that we're just bringing to the market now to deliver higher barriers in monolayer PET. So we expect to really lead the charge in converting those remaining packaging forms to PET. So we're quite confident that, year to year, we're going to see continued significant growth in the demand for PET.

MR. MALASHEVICH: Mr. Mullock, can you assure us that you're not going to go after the wine market?

(Laughter.)

MR. CARPENTER: Thank you very much, Mr. Mullock. It's very helpful.

MR. MULLOCK: You're welcome, Mr. Carpenter.

MR. CARPENTER: Any other questions?

(No response.)

MR. CARPENTER: Okay. I want to thank the

panel again for making the trip here today and for your testimony and your thoughtful responses to our questions. At this point, we'll take about a 10-minute recess, and, at that point, we'll come back and have the closing statements, beginning with the Petitioners.

(Whereupon, at 1:09 p.m., a brief recess was taken.)

MR. CARPENTER: Could we resume? Mr. Hertzberg, I'll ask if you could come forward.

(Pause.)

MR. CARPENTER: Welcome back.

MS. COFRANCESCO: Good afternoon. I'm Juliana Cofrancesco of Howrey, Simon. I just wanted to briefly sum up the testimony and evidence that you heard this morning.

With regard to the preliminary determination that the Commission is going to make as to whether there is a reasonable indication of material injury, the evidence shows the following. The imports should be cumulatively assessed because they compete with each other and with the PET resin produced by the domestic industry. You've heard evidence this morning about that, including from the representatives of the foreign suppliers.

We have explained in detail to you, through our witnesses, why we believe that the absolute volume of cumulated subject imports, as well as the increase in those imports, is significant. There are a number of factors that we explained about that, not the least of which is the concentrated number of purchasers in the market and the manner in which the imports are being sold and offered for sale.

So that, as you've heard from witnesses this morning, even if there may be a 10 percent market share, if there is an offer being made to numerous purchasers of a very low-priced resin, that amount resonates throughout the market, affecting prices of the domestic producers, and as those prices are affected, the margins are also affected, and the data that you see before you and the questionnaire responses will bear that out.

There has also been no denial of significant underselling by the foreign suppliers. You've heard nothing about that this morning. We believe, and the evidence shows, that the significant price underselling by those imports is a result of the strategy of these unfairly traded imports to gain market share in the United States by undercutting U.S. prices without regard to their own costs of

production. And in that regard, we would ask if the Commission might also request the raw material prices, not just from those present in the room today but also from other suppliers, if you possibly can, the foreign suppliers.

The domestic industry has lost substantial sales and substantial revenues to the subject imports, and the impact of those imports is to depress and suppress prices in the United States.

You heard in the introduction that a number of the financial indicators that the Commission typically looks at have been going up, and we do not deny that. The data certainly shows that, but in the usual case, if things are so rosy, then the domestic producers should be expecting to be quite profitable and to be making plans to invest for this terrific demand that's coming into the United States, demand that is expected to continue, but that's not the case.

The domestic producers are, in fact, curtailing their plans to expand, and that doesn't make sense. It only makes sense when you find that the imports are drastically affecting the operations of these domestic producers. That impact of the unfairly traded imports is demonstrated by a decline in profits, the absence of an adequate return on

previous investments in production capacity, and as far as capacity is concerned, you've heard an allegation that capacity has been added in the United States in a manner that appears to be irresponsible. It is absolutely not irresponsible.

The capacity that has been added was planned many years ago when prices were quite sufficient to sustain an adequate return on investment at that time, and the expansions that have occurred in the United States have not been new plants that have gone up from the ground up. They have mostly been conversions from fiber operations.

There is an insufficiency of profits to justify continuing investments by the domestic industry. You heard that evidence from the producers, all of which were here today, and you also heard about negative impacts on employment. Both Voridian and Wellman talked about reductions in salary and wages for hourly employees and for other employees, production employees, salaried employees, all the way up to the executive level, a further indicator of injury, and an inability to raise capital. All of these factors support a finding by the Commission that there is a reasonable indication of material injury by reason of the imports.

In addition, with regard to threat, the evidence demonstrates the following: The countervailable subsidies in the petition indicate that imports from India and Thailand are likely to increase. The existing production capacity and imminent substantial increases in production capacity also indicate the likelihood of substantially increased imports into the United States.

There has also been a substantial rate of increase in the volume and market penetration of the imports, also indicating a likelihood of substantially increased imports, and the prices at which the imports are entering the United States are also likely to continue to have a significant depressing and suppressing effect on domestic producer prices.

With regard to the EU, that the foreign producers continue to mention that they are still importing into the EU, those imports are now at fair trade levels, and that's all that we are asking as well. We are asking that imports into the United States should be fairly traded.

As far as, again, addressing the comments of the foreign producers that the imports are so small, they could have no impact whatsoever, I would ask the Commission to consider why there is such a long list

of organizations and entities in the United States that seem to be opposing this. That's an attachment to the testimony that was offered this morning.

As far as the North American capacity in Mexico is concerned, I would like to ask Mr. Adlam to address that.

MR. ADLAM: Yes. I'm Mark Adlam from M&G Polymers. I was hearing a lot of allegations from the other side that maybe our investment in Mexico was a little bit irresponsible, so I wanted to set the record straight while I was here in front of you guys.

Basically, Mexico is a growing market. When you've been hearing 7 to 10 percent for the NAFTA market, Mexico is growing at around about 15 percent, so it's a very logical place for us to have made our investment. The plant was built for the Mexico market primarily. We expect that the capacity that we have laid on will be fully used up by the end of 2006.

And the other thing I would like to leave you with, too, is I think on some of the charts that you would have seen, I think the other side was trying to indicate that we brought this capacity on in one huge slug. Here comes the biggest plant in the world, and, bang, in 2003 it hits the market. That was not true. Basically, we are still not running that plant

at full capacity. We will be probably running that plant at full capacity towards the end of this year, so it's been sort of an incremental staging of capacity, which has been in line with what we see as the market growth.

So I wanted to set the record straight, and if you need more information on our investment in Mexico, we are very proud of it, and we would be happy to tell you more about it. Thank you.

MS. COFRANCESCO: And as far as other remarks relating to investments that the domestic industry has made in NAFTA, the fact of the matter is, they have made very, very substantial investments in the United States, and after all, that is what the Commission needs to focus on.

With regard to the exhibits that the other side has offered, we find that they seem to be constantly mixing North American capacity with U.S. consumption. There has not been a balanced discussion of that by the other side, and there may be a reason why.

MR. CARPENTER: Could you summarize in a sentence now? Your time is up.

MS. COFRANCESCO: Sure. In sum, we believe that when the evidence and the data is examined by the

Commission, the Commission will find that there is a reasonable indication of material injury and a threat thereof. Thank you.

MR. CARPENTER: Thank you very much for those statements.

Would Respondents come forward now, please?

(Pause.)

MR. CARPENTER: Welcome back.

MS. ESSERMAN: I would like to offer a twist on the tale of two industries that I presented at the outset. It's the same concept, and that is the industry that is here before you seeking import relief, the profile of the industry that typically proves injury by reason of imports -- I would just say that the profile here is so very, very different. I think, as you heard from counsel for Petitioners, virtually all of the indicators are up. Production is up. Domestic shipments are up. Capacity is up. Prices today are on the rise. There has been massive investment, again, as Petitioners' counsel just indicated, and so you have here a very different profile than the industry to which normally petitions before the Commission.

Again, as Mr. Carpenter had just said, the rate of growth, the explosive growth, in demand that

is expected is very, very different from what the Commission ordinarily sees in a case where an affirmative determination is warranted.

There also can be no basis for an affirmative, current-injury determination. The Petitioners' own words very clearly indicated what the problem was, why there was a problem, and they were for reasons unrelated to imports. A confluence of factors: increased capacity, demand not rising as much as expected in a time of a seasonal dip in demand. There is no connection to imports here.

I find it implausible that the Petitioners claim, after the introduction of such substantial new capacity in 2003, that imports have impeded investment. It's simply implausible in light of these facts.

This industry is a magnet for investment, so there is no case on affirmative injury. It is clear they have focused on the threat of injury, and, of course, we believe you will get to that because there is no basis for an affirmative. And again, I would go to your question, Mr. Carpenter, and ask you to consider the highly unusual nature of the industry and the prospects for the future.

I would just briefly read from another 10-K

by Eastman. This is its most recent 10-K filed in March 2004. Here, the company notes the enormous prospects for the future, that PET polymers have grown briskly over the past several years, driven by its popularity as a substitute for glass and aluminum, making inroads in soft drink and water bottles, and that they are targeting all of these new areas, such as hot fill and barrier containers for beer, soups, and sauces. They also note the explosive history of growth at a compound annual rate of 18.3 percent over the last decade and a half and then conclude that global demand for PET polymers is expected to grow approximately 10 percent annually for the next several years.

Virtually all of the Petitioners say that global demand is expected to grow by 10 percent over the next several years: growth here in the United States, 7 to 10 percent, and growth in emerging markets at brisker rates, as they are less-mature markets.

As we will show in our post-hearing brief, not only are we saying there are enormous opportunities for our companies in our home markets in Asia, where there is a population of two billion or several billion, but also in a number of the emerging

markets that are proximate to our countries. So we are not just saying that the exports will go to the home market but also into other export markets.

Finally, let me say, the Commission cannot rest an affirmative threat determination on mere speculation that the product will come to the United States. It must be based on concrete evidence.

For all of these reasons, we believe that there is no basis for an affirmative determination in this record, and, again, as I said earlier, we believe that there will be a very full record upon which to make a determination. Thank you very much.

MR. CARPENTER: Thank you, Ms. Esserman.

MR. McCLURE: Jim McClure, Office of Investigations. We will have one more APO release this week. I hope it's tomorrow. I'm going to go back in and see if the fax machine has been churning away or the Pony Express has brought some of those questionnaires in. As I say, I hope to have it out tomorrow so you have most, if not all, of what we've gotten in time to complete your post-conference briefs.

MR. CARPENTER: Let me just mention a few dates in conclusion. The deadline for both the submission of corrections to the transcript and for

briefs in the investigations is Monday, April 19th. If briefs contain business-proprietary information, a nonbusiness-proprietary version is due on April 20th. The Commission has not yet scheduled its vote on the investigations, but I believe it will do so in the next few days. It will report its determinations to the Secretary of Commerce on Monday, May 10th, and Commissioners' opinions will be transmitted to Commerce on May 17th. Thank you, everyone, for coming. This conference is adjourned.

(Whereupon, at 1:40 p.m., the conference was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Polyethylene Terephthalate Resin from India

INVESTIGATION NO.: 701-TA-439

HEARING DATE: April 14, 2004

LOCATION: Washington, D.C.

NATURE OF HEARING: Preliminary Conference

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: April 14, 2004

SIGNED: LaShonne Robinson
Signature of the Contractor or the Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Carlos Gamez
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Donna Kraus
Signature of Court Reporter